

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013 68833
Issue No.: 2007
Case No.: ██████████
Hearing Date: December 9, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on December 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's Spouse, ██████████. An interpreter, ██████████ also appeared on behalf of the Claimant. Participants on behalf of Department of Human Services (Department) included ██████████ FIM.

ISSUE

Did the Claimant request a timely hearing?

Did the Department properly provide Medical Assistance (MA) coverage for Claimant subject to a deductible?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of MA benefits subject to a deductible. The deductible amount was calculated by the Department as \$2066. Exhibit 3.
2. On March 18, 2013, the Department sent Claimant a Notice of Case Action informing Claimant that he was entitled to Medical Assistance subject to a deductible.

3. The October 30, 2013 Notice of Case Action also changed the Claimant's Medical Assistance and imposed a deductible amount of \$2066.
4. The Claimant receives a pension of \$452 monthly which was not included in the unearned income when calculating the deductible.
5. The Claimant receives RSDI in the amount of \$2079 and his wife receives RSDI in the amount for \$349. These amounts were confirmed as correct by the Claimant and his spouse.
6. The Claimant has an insurance expense of \$240 monthly. The Department when calculating the medical deductible used the wrong amount for insurance (\$452).
7. When calculating the Group 2 spend down the Department used a group of 2 persons.
8. On April 2, 2013, Claimant requested AHR [REDACTED] file a hearing request contesting the Department's action. The Department received the request on September 12, 2013. The Date Stamp was not the date stamp for the Greenfield Joy District office.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

MA Coverage

At issue at the hearing was the correctness of the calculation of the \$2066 monthly deductible. Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (July 2013), p. 1; BEM 135 (July 2013), p. 3; BEM 544 (July 2013), p. 1; RFT 240 (July 2007), p. 1. The monthly PIL for an MA fiscal group size of two (Claimant and his wife) living in Wayne County is \$500. RFT 200 (2007), p. 1; RFT 240, p. 1. Thus, if Claimant's net income is in excess of \$500, the Claimant and spouse may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$500. BEM 545 (), p. 2.

In calculating Claimant's total net income for MA purposes, the Department did not include the Claimant's pension earnings of \$452 and thus the budget is incorrect. The amount of the insurance premium paid by the Claimant for medical insurance was also incorrect or not included. Thus the Department conceded that the budget presented was not correct and must be recalculated.

Therefore based upon the evidence presented the imposition of the \$2066 spend down deductible as presented is incorrect

As regards the issue of whether the hearing request was timely, it is deemed timely based upon the credible testimony of the Claimant's Authorized Hearing Representative who credibly testified he mailed the hearing request on the date it was made by placing it in the mail. Also the date stamp for September is not for the Greenfield Joy District Office and therefore appears the Hearing request was mis-delivered by the Department.

DECISION AND ORDER

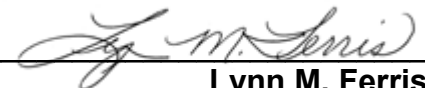
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when it calculated and determined the deductible amount under Claimant's Group 2 MA program.

Accordingly, the Department's decision is

REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is to initiate recalculation of the Claimant's deductible to include the unearned pension income and to use the correct monthly medical insurance expense.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 2, 2014

Date Mailed: January 2, 2014

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of

the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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