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

IN THE MATTER OF:

█████████████████

Reg. No.:
Issue No(s).:
Case No.:
Hearing Date:
County:

ADMINISTRATIVE LAW JUDGE: MICHAEL S. NEWELL

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on ██████████ from Lansing, Michigan. Participants on behalf of Claimant included ██████████ Claimant guardian. Participants on behalf of the Department of Human Services (Department) included ████████ ██ ███ ████████

ISSUE

Did the Department properly determine Claimant's MA eligibility?

FINDINGS OF FACT

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

1. On ████████ ██ ████ the Department issued a Notice of Case Action which closed Claimant's zero-deductible; SSI related Medicaid and placed her on a deductible $██ per month.

2. The budget used to determine whether Claimant exceeded the income limit of $██ is at Exhibit 3 and indicates that Claimant's countable income was $██

3. Claimant filed a hearing request on ████████ ██ ████

4. After the hearing request, the Department double-checked Claimant's budget and determined that Claimant had $████ in insurance premiums that were not calculated.

5. The Department reran the budget for deductible purposes and determined that Claimant's countable income was $██████ and lowered her deductible to $██████ (Exhibit 5).

6. The Department did not rerun the budget to determine whether Claimant exceeded the income limit for zero deductible MA, however.

7. The Department never requested guardian or conservator expenses.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Although the Department reran the budget after the hearing request, no Notice of Case Action was provided for that decision, and the Administrative Law Judge's (ALJ) jurisdiction regarding a decision issued after the hearing request is questionable, and, in any event, it certainly cannot be subject to meaningful review without a copy of the decision. Further, the Department did not rerun the budget after the correction to determine whether Claimant qualified for zero-deductible MA.

What is clear is that the ALJ has jurisdiction regarding the December 16, 2013 decision that this must be reversed because, as the Department indicated that budget was incorrect. Upon remand, the Department shall redetermine whether Claimant exceeds the income limits for zero-deductible SSI related MA before determining that a deductible applies.
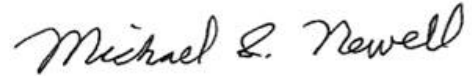
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it issued the ██████ ██ ██ Notice of Case Action.

DECISION AND ORDER

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. Request verification regarding guardianship or conservator expenses in accordance with policy

2. Redetermine whether Claimant exceeds the income limits for zero-deductible SSI Related Medicaid.

3. Issue a Notice of Action addressing its decision in this regard, including any applicable deductible.

Michael S. Newell
_____
Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: <u>April 25, 2014</u>

Date Mailed: <u>April 25, 2014</u>

<u>NOTICE OF APPEAL</u>: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

MSN/las

cc: