

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

IN THE MATTER OF:

████████████████████
██████████
████████████████████

Reg. No.: 2014 28382
Issue No(s): 2001
Case No.: ██████████
Hearing Date: April 3, 2014
County: Wayne County 82-18

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 April 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. The Claimant's Authorized Hearing Representative, ██████████, from the Guidance Center also appeared. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly provide Claimant with MA coverage subject to a monthly \$1305 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. In a December 19, 2013 Notice of Case Action, the Department notified Claimant that, effective December 1, 2013 (i) his MA coverage would include a deductible of ██████████ monthly deductible.
2. The Claimant receives RSDI from the Social Security Administration in the amount of \$██████. The RSDI is subject to a repayment of ████████ per month for a ████████ overpayment by the SSA. Claimant Exhibit A.
3. The Claimant also pays a Medicare Part B premium in the amount of \$104.90.

4. On February 11, 2014, Claimant's Authorized Hearing Representative filed a hearing request, disputing the Department's actions.

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), and Department of Human Services 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.

In a December 2, 2013 Notice of Case Action, the Department notified Claimant that effective January 1, 2014 he would be eligible for MA coverage subject to a \$ [REDACTED] monthly deductible. Claimant requested a hearing disputing the Department's action.

The Department provided a SSI-related MA budget showing the calculation of Claimant's net income for MA purposes. The budget shows Claimant had unearned income of [REDACTED]. Claimant confirmed that he received gross monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$ [REDACTED] but did not receive that amount due to an overpayment by the SSA which he was repaying. Exhibit 2. The Department did not remove the re payment amount from the Claimant's gross unearned income as required by DHs Policy and thus the Budget and deductible as calculated is incorrect. BEM 500 provides:

Reduced Benefits Due to Overpayment

Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. These amounts are excluded as income. BEM 500, pp. 5 (1/1/14)

The Department is also required to include as an insurance premium the Claimant Medicare Part B premium in the amount of [REDACTED]. when calculating the deductible. The Department did not include the premium as an expense. Claimant Exhibit A

The Department properly applied a [REDACTED] unearned income disregard. BEM 541 (January 2011), p 3.

Based upon the evidence presented it is determined that the Department did not properly calculate the deductible amount and is required to recalculate same. The requirement of BEM 530 was not properly applied regarding the RSDI income and repayment amounts and no Medicare Part B Premium was deducted, thus the SSI Related Medicaid budget is incorrect.

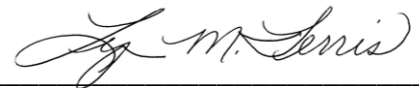
DECISION AND ORDER

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 acted in accordance with Department policy when it closed Claimant's Ad-Care case and MSP cases but did not act in accordance with Department policy when it calculated her MA deductible.

Accordingly, the Department's decision is REVERSED with respect to the Department's calculation of Claimant's MA deductible.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's MA deductible as of December 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision; and
2. Provide Claimant with MA coverage he is eligible to receive from December 1, 2013, ongoing; and
3. Notify Claimant's AHR in writing of its decision in accordance with Department policy.



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

Date Signed: April 22, 2014

Date Mailed: April 22, 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/tm

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