

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

**IN THE MATTER OF:**

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

Reg. No.: 14-008326  
Issue No.: 2001  
Case No.: ██████████  
Hearing Date: October 16, 2014  
County: MACOMB-DISTRICT 12

**ADMINISTRATIVE LAW JUDGE: Zainab Baydoun**

**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 October 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's daughter/Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

**ISSUE**

Did the Department properly calculate Claimant's Medical Assistance (MA) patient pay amount?

**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 March 3, 2014, Claimant submitted an application for MA benefits.
2. On June 24, 2014, the Department sent Claimant a Health Care Coverage Determination Notice informing her that she was approved for MA coverage effective March 1, 2014, ongoing, with a patient pay amount of \$2186. (Exhibit 1)
3. On July 25, 2014, Claimant requested a hearing disputing the Department's calculation of her patient pay amount.

## **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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Additionally, the patient pay amount is the client's share of the cost of long term care or hospital services. BEM 546 (October 2013), p. 1. The patient pay amount is total income minus total need. Total income is the client's countable unearned income plus her remaining earned income and total need is the sum of the following when allowed: patient allowance, home maintenance disregard, community spouse income allowance, family allowance, children's allowance, health insurance premiums and guardianship/conservator expenses. BEM 546, p. 1.

At the hearing, the Department produced a Patient Pay Amount Summary showing how Claimant's patient pay amount was calculated. (Exhibit 2). The Department determined that Claimant had unearned income in the amount of \$2351, which it testified came from \$1135 in gross monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits; \$228.41 from Claimant's pension; and \$988 in VA Compensation, that Claimant receives as the surviving spouse of a veteran. (Exhibit 3). Claimant's AHR confirmed that Claimant does receive RSDI benefits of \$1135 and a monthly pension of \$228.41. Claimant's AHR testified however, that the \$988 in VA Compensation goes towards aid and attendance and that Claimant does not receive the money herself.

BEM 503 provides that although the Department is to count the gross amount of the veteran pension or compensation as unearned income, the Department is to exclude any portion of a payment resulting from an aid and attendance allowance or a housebound allowance, except the \$90 reduced VA payment made to certain MA recipients in Medicaid-certified long term care facilities. See BEM 546. BEM 503 (January 2014), pp.36-37. The additional allowances such as those paid towards aid and attendance are not identifiable on a check stub or award letter and the Department is to accept the client's statement concerning the allowance. BEM 503, p. 36

Claimant's AHR credibly testified that she had been in constant contact with Claimant's Department case worker regarding the VA compensation. Claimant's case worker was not present for the hearing, however, the Department representative participating in the hearing stated that the Department was unaware that the VA payment included aid and allowance, as the documentation previously submitted by Claimant identified the payment as a death pension. (Exhibit 4). Claimant's AHR provided an award letter from the Department of Veterans Affairs establishing that Claimant was approved for the VA death benefit with aid and attendance. (Exhibit B).

In this case, the Department should have accepted the client's statement that the VA death benefit received included an aid and attendance allowance and excluded the amount from the calculation of unearned income. In the event that the Department determined the statement was a discrepancy with the documents previously submitted, the Department should have given the client a reasonable opportunity to resolve any discrepancy between her statement and the information provided in the verification. (Exhibit 4); BAM 130 (January 2014), p. 7.

A further review of the budget established that the Department properly determined that Claimant was entitled to the following need based expenses: (i) \$104.90 for her health insurance premium; and (iii) \$60 towards her patient allowance. BEM 546, pp. 2, 7. Claimant's AHR confirmed that Claimant was not married, did not have any children, and that there was no guardianship/conservator in place. Therefore, the Department properly did not consider the guardianship/conservator expense, community spouse, family or children's allowance.

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 because of the errors in the calculation of Claimant's total income, the Department did not act in accordance with Department policy when it calculated Claimant's patient pay amount.

### **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. Recalculate Claimant's patient pay amount from March 1, 2014, ongoing;
2. Issue supplements to Claimant and her MA providers for any MA benefits that she was entitled to receive but did not from March 1, 2014, ongoing; and

3. Notify Claimant and her representative in writing of its decision.



**Zainab Baydoun**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **10/28/2014**

Date Mailed: **10/28/2014**

ZB / cl

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

[REDACTED]  
[REDACTED]  
[REDACTED]  
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