

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201413680
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: February 4, 2014
County: Lenawee

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, telephone hearing was held on Tuesday, February 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's wife, [REDACTED], and the Claimant's attorney, [REDACTED], [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED], from the Attorney General's Office and [REDACTED], ES.

ISSUE

Did the Department properly determine the Claimant's Medical Assistance (MA) patient pay amount 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. The Claimant is an ongoing recipient of Medical Assistance (MA) benefits in a long term facility and does have a community spouse.
2. On November 13, 2013, the Department completed a determination of the Claimant's eligibility to receive assistance.
3. The Claimant receives monthly unearned income in the gross monthly amount of [REDACTED] in Social Security RSDI income, Pension [REDACTED] Pension [REDACTED], and Pension [REDACTED] for a gross unearned income amount of [REDACTED]. Department Exhibit 1-22.

4. The Department completed a MA budget that determined the Claimant was eligible for MA benefits with a patient pay amount (PPA).
5. On November 13, 2013, the Department sent the Claimant a notice of the Department's action of the PPA of [REDACTED] for January 1, 2013 through February 28, 2013 and [REDACTED] from March 1, 2013 ongoing. Department Exhibit 28-38.
6. The Department received the Claimant's request for a hearing on November 19, 2013, protesting his Medical Assistance PPA.

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.

Additionally, the parties have agreed that the Department will redetermine the Claimant's PPA and the Community Spouse 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 the Department did not act in accordance with Department policy when it determined the Claimant's Patient Pay Amount and the Community Spouse Allowance.

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. Initiate a redetermination of the Claimant's eligibility for MA ppa.
2. Provide the Claimant and his attorney with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

IT IS SO ORDERED.



Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 25, 2014

Date Mailed: February 25, 2014

NOTICE OF APPEAL: 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

201413680/CAP

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

CGF/aca

cc:

