

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-17280
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 26, 2014
County: Macomb #12

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 February 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES), [REDACTED].

ISSUE

Did the Department properly determine the Claimant's deductible on his ongoing Medical Assistance (MA)?

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 was an ongoing recipient of MA benefits.
2. There is no DHS-1605, Notice of Case Action in evidence. The Department's hearing summary indicates that on December 12, 2013, the Claimant's deductible was increased.
3. There is no DHS-1605, Notice of Case Action in evidence. The Department's hearing summary indicates that on December 6, 2013, the Claimant was notified of the new deductible.
4. On December 11, 2013, the Department received the Claimant's written hearing request protesting the determination of his deductible.

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 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 (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Per BEM 105 (2010) p. 1, Michigan provides MA to eligible Claimants under two general classifications: group 1 and group 2 MA. The Claimant qualified under the group 2 MA classification which consists of Claimants whose eligibility results from the state designating certain types of individuals as medically needy. Per BEM 545 (2011), in order to qualify for group 2 MA, a medically needy Claimant must have income as equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the basic maintenance level by considering:

1. Protected income level.
2. The amount deferred to dependent.
3. Health insurance premiums
4. Remedial services if determining the eligibility for Claimants in Adult Care Homes.

If the Claimant's income exceeds the protect income level, the excess income must be used to pay medical expenses before group 2 MA coverage can begin. The policy requires the Department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM 500, p. 1.

In the instant case, the Department calculated the Claimant's income based upon his receipt of [REDACTED]. However, the ES at the hearing was not the worker who took action in the Claimant's case. Furthermore, this Administrative Law Judge determines that the dates that are documented in the Department's hearing summary are in conflict with the Department's exhibit number five, which indicates that the Claimant had a deductible of \$ [REDACTED] as of November 1, 2013. Also, the

Department's exhibit number four is the MA budget and it indicates that the Claimant's prorated share of income is \$ [REDACTED]. This Administrative Law Judge asked the ES present at the hearing how it is that the Department calculated the budget. Specifically, the ES was asked how it is that the deductible was arrived at when the Claimant's total unearned income was \$ [REDACTED] he had one dependent, and a prorate divisor of \$ [REDACTED]. The ES present at the hearing could not answer that.

It is the Department's burden of proving that their actions in the Claimant's case are proper according to Departmental policy. In this case, the Department's hearing summary contains many errors and there is no DHS-1605, Notice of Case Action in evidence. Furthermore, the Claimant's budget could not be explained to this Administrative Law Judge. As such, the Administrative Law Judge determines that the evidence is insufficient to establish that the Department was acting in accordance with its policy when it took action to determine the Claimant's deductible.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did not act properly when determining the Claimant's deductible on his MA benefits..

Accordingly, the Department's MA 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. Re-determine the Claimant's eligibility for MA back to November 1, 2013, and
2. Issue the Claimant any supplement he may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/28/14

Date Mailed: 3/3/14

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

SEH/tb

cc:

