

**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.: 2014-21464
Issue No(s): 2001
Case No.: ██████████
Hearing Date: March 13, 2014
County: Wayne (82)

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 March 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████, Claimant's Authorized Hearing Representative/Legal Guardian. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████ Family Independence Manager.

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 November 20, 2013, Claimant submitted an application for MA benefits, retroactive to October 2013.
2. On December 17, 2013, the Department sent Claimant a Notice of Case Action informing him that effective October 1, 2013, he was approved for MA benefits under the Group 2 Aged, Blind, Disabled program with a patient pay amount of ██████████ (Exhibit3)
3. On January 2, 2014, Claimant submitted a hearing request disputing the Department's calculation of his 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 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 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 his 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 1). The Department determined that Claimant had unearned income in the amount of \$[REDACTED] which it testified came from [REDACTED] in gross monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits and [REDACTED] from Claimant's pension. The Department presented a SOLQ and a payment statement detailing the pension amount in support of its testimony. (Exhibit 2).

Claimant's guardian confirmed that the gross monthly amounts relied on by the Department were correct, but stated that Claimant does not receive the full amount of his RSDI benefits, as there is about [REDACTED] deducted monthly due to a garnishment. The Department is to consider gross income, which is the amount of income before any deductions such as taxes or garnishments. This may be more than the individual actually receives. Gross income includes amounts withheld from income which includes any of the following: voluntary, to repay a debt or to meet a legal obligation. Some examples of amounts which may be withheld, but are still considered part of gross income are: income taxes, health or life insurance premiums, medicare premiums, union dues, loan payments, garnishments, and court-ordered or voluntary child support payments. BEM 500 (July 2013), pp.4-5.

A further review of the budget establishes that the Department properly determined that Claimant was entitled to the following need based expenses: (i) [REDACTED] for guardianship/conservator expenses; (ii) [REDACTED] for his health insurance premium; and (iii) [REDACTED] towards his patient allowance. BEM 546, pp. 2, 7. The Department testified that

Claimant was not married and did not have any children, therefore, the Department did not consider the community spouse, family or children's allowance.

Claimant's total income of \$ [REDACTED] minus \$ [REDACTED], which is the sum of the total needs considered, results in a patient pay amount of [REDACTED]

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 acted in accordance with Department policy when it calculated Claimant's patient pay amount.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: March 17, 2014

Date Mailed: March 17, 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.

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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

ZB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]