

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

IN THE MATTER OF:

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

Reg. No.: 2014-8067
Issue No(s): 2001
Case No.: ██████████
Hearing Date: January 16, 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 January 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her mother in law, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker and ██████████, Family Independence Manager.

ISSUE

Did the Department properly calculate the amount of Claimant's Medical Assistance (MA) 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. On October 7, 2013, Claimant submitted an application for MA benefits, retroactive to September 2013.
2. On October 10, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for MA benefits with a monthly deductible of ██████████ (Exhibit 1, pp. 17-22)
3. On October 22, 2013, Claimant submitted a hearing request disputing the amount of her deductible.

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, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105 (July 2013), p.1; BEM 126 (July 2013); BEM 544 (July 2013), p 1; BEM 545 (July 2013); RFT 200 (July 2007); RFT 240 (July 2007), p 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 211 (July 2013); BEM 536 (July 2013). A multi-step process is utilized when determining a fiscal group member's income. BEM 536, pp. 1-5. Thus, if Claimant's net monthly income is in excess of the PIL, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds PIL.

At the hearing, the Department testified that Claimant was approved for MA benefits under the Group 2 Pregnant Women MA program. The Department produced a MA net income budget showing how the deductible in Claimant's case was calculated. (Exhibit 1, pp.15 -16). The Department testified that in calculating Claimant's deductible, it considered Claimant's husband's income from self employment and relied on the 2012 tax return submitted by Claimant with her application.

In calculating gross income from self-employment for MA purposes, the Department will determine countable income by deducting the allowable expenses of producing the income from the total proceeds. BEM 502 (July 2013), p.3. Allowable expenses are the higher of (i) 25 percent of the total proceeds, or (ii) actual expenses, if the client chooses to claim and verify the expenses, up to the amount of the total proceeds. BEM 502, p 3.

In this case, the Department testified that it relied on the gross income found on the Schedule C Profit or Loss from Business for Claimant's husband's business and that the total gross income for the business was [REDACTED] (Exhibit 1, p.6). The Department testified that it took 25% of that total proceed amount and divided by 12 to determine the monthly income for Claimant for MA purposes and inputted that information into Bridges to determine the deductible amount.

Claimant disputed that her husband earns [REDACTED] annually, and stated that after all of the business expenses, her husband's adjusted gross income was [REDACTED]. (Exhibit 1, p.4). After further review, it appears that Claimant and her husband filed a 1040, U.S. Individual Tax return and that the adjusted gross income was [REDACTED]. (Exhibit 1, p. 4). The Department should have considered the adjusted gross income from Claimant's individual tax return, rather than the gross income prior to any expenses and deductions as found on the Schedule C Profit or Loss from Business form. Additionally, a review of the tax returns submitted establishes that Claimant's actual expenses are higher than 25% of the total proceeds, as determined by the Department.

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 income for MA purposes, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's deductible.

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 MA deductible for October 1, 2013, ongoing;
2. Issue supplements to Claimant for any MA benefits that she was entitled to receive but did not effective October 1, 2013, ongoing; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun

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

Date Signed: February 7, 2014

Date Mailed: February 7, 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

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]