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

IN THE MATTER OF:

[redacted]

Reg. No.: 15-007153
Issue No.: 2001
Case No.: [redacted]
Hearing Date: July 15, 2015
County: KENT-DISTRICT 1 (FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on July 15, 2015, from Grand Rapids, Michigan. Participants on behalf of the Claimant included the Claimant [redacted] and his father, [redacted]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist, [redacted] and Assistance Payments Supervisor, [redacted].

ISSUES

1.) Did the Department properly determine the Claimant's Medical Assistance (MA) deductible?

2.) Did the Department properly close the Claimant's MA case for failure to meet his 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. The Claimant was an ongoing recipient of MA with a deductible in the amount of [redacted].

2. In December 2014, the Claimant submitted several medical bills.

3. On March 2, 2015, the Department Claimant a DHS-1606, Health Care Coverage Determination Notice informing the Claimant that as April 1, 2015, his MA case would close because he had not met his deductible in at least one of the last three months.

4. On April 30, 2015, the Department received the Claimant hearing request protesting the closure of his MA case and disputing the Department's determination that he did not meet his deductible for the month of November and December 2014.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Bridges Eligibility Manual (BEM) 2015 (545) p. 1, provides that income eligibility exists for the calendar month tested when:

- There is no excess income.
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When **one** of the following equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**:

- Old bills (defined in EXHIBIT IB).
- Personal care services in clients home, (defined in Exhibit II), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).
- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC).

When **one** of the above does **not** equal or exceed the group's excess income for the month tested, income eligibility begins either:

- **The exact day of the month** the allowable expenses **exceed** the excess income.

- **The day after the day of the month** the allowable expenses **equal** the excess income.

In addition to income eligibility, the fiscal group must meet all other financial eligibility factors for the category processed. However, eligibility for MA coverage exists only for qualified fiscal group members. A qualified fiscal group member is an individual who meets all the nonfinancial eligibility factors for the category processed.

Also, the Claimant testified that he was under the impression that his incurred expenses could be counted. Exhibit 1 provides that a **medical expense** must be **incurred** for a medical service listed below. Except for some transportation, the actual charge(s) minus liable third party resource payments counts as an allowable expense.

In this case, the Department testified that the Claimant's deductible was about [redacted] higher than it should have been because the Claimant did not report that he had stopped earned income. The Administrative Law Judge closely examined the budget in evidence and it shows that the Claimant has unearned income of [redacted] and no earned income. The verification of unearned income in the record indicates that the Claimant has [redacted] of unearned income. Furthermore, if the difference between [redacted] and [redacted] was actually *earned income* then the budget in evidence does not provide for any earned general exclusion of earned income. Therefore, the evidence does not establish that the Department calculated the Claimant's spend down in accordance with Departmental policy.

Furthermore, the Claimant testified that he was never notified that his expenses did not meet his deductible until his case closed. BEM 545 p. 2, provides that: The individual must be given the most advantageous use of their old bills (also known as incurred expenses). The individual may request coverage for the current month, up to six future months (see eligibility based on old bills in this item), and for any of the prior three months before the current month.

1. Use the budgeting rules in BEM 530. Determine income eligibility in calendar month order, starting with the oldest calendar month.

2. Use BEM 546 to determine the post-eligibility patient-pay amount (PPA) for each L/H month that a client is Group 2 eligible.

3. Determine Medicare Savings Program eligibility separately for Group 2 clients entitled to Medicare Part A (see BEM 165).

4. Request information about **all** medical expenses incurred during and prior to each month with excess income.

5. Notify the group of the outcome of each determination. **NOTIFICATION** explains which forms to use and when.

Income eligibility exists for the entire month tested when the group does **not** have excess income.

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 amount of the Claimant's deductible. This Administrative Law Judge also concludes that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that the Claimant had excess income to meet his deductible and then closed his MA case.

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. Redetermine the Claimant's eligibility for MA back to October, 2014, and

2. Reprocess the Claimant medical bills which were submitted in December, 2014, and

3. Issue the Claimant a new determination of his MA eligibility.

Susanne E. Harris

Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/28/2015**

Date Mailed: **7/28/2015**

SEH/sw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc: [redacted]