

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-002003
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: April 09, 2015
County: WAYNE-DISTRICT 76

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 9, 2015 from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative and Guardian, [REDACTED]. The Claimant did not appear. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] Assistant Payment Worker, and [REDACTED] Assistant Payment Worker Supervisor.

ISSUE

Did the Department properly impose a deductible on the Claimant's MA case?

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's Guardian thought the Claimant was previously enrolled in the Freedom to Work program which allowed him to work 20 hours weekly. The Claimant is disabled.
2. As of April 2015, the Claimant has been enrolled in the Freedom to Work.
3. The Claimant receives unearned income in the amount of \$703. Exhibit A
4. The Claimant also is employed. The Department found the Claimant's total income to be \$1094. The earned income used in the budget was \$887. The unearned income of \$703 was correct.

5. A redetermination was conducted for the month of September 2015 and Claimant was found eligible for MA from October 1, 2015, with a deductible of \$704.
6. The Department issued a Health Care Coverage Determination Notice dated [REDACTED] imposing a \$704 deductible for the Claimant effective [REDACTED] Exhibit A and B.
7. The Claimant Guardian and AHR requested a timely hearing on [REDACTED].

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.

In this case, the Department imposed a deductible of \$704 on the Claimant's Medical Assistance case effective [REDACTED], after a redetermination conducted in September 2014. The Claimant has been disabled since age 18. The Department did not consider whether the Claimant was eligible for the Freedom to Work program at the time of redetermination. At the time of the hearing, the Claimant had been determined eligible for Freedom to Work but it was not explained how that eligibility was determined. The Department also presented a budget to demonstrate how it determined the deductible amount, but could not explain how the Claimant's earned income was determined. The Work Number was used to determine income (Exhibits B and C). The budget also did not include any fees for guardianship, insurance premiums, ongoing medical expense, nor did it consider current medical bills.

Based upon the evidence presented it is determined that the budget completed by the Department to determine the Claimant's deductible, omits several important expenses, and the earned income used by the Department was not explained. When completing the budget, the Department should have inquired of the Claimant's AHR and Guardian whether there were any Probate approved expenses, ongoing medical expenses, remedial services, insurance premiums and/or current medical bills. The redetermination did not request this information and the Department never attempted to

verify the information, thus the Department failed to meet its burden of proof to demonstrate that the deductible amount as determined by the Department's budget is correct. Exhibits B and C

During the redetermination review the Department did not consider whether the Claimant, whose status was disabled and working, was eligible for the Freedom to Work program. Although the Department indicated that the Claimant was found eligible for the program in April 2015, the Department did not consider this program for the Claimant when conducting the redetermination. The MA recipient under Department policy is entitled to the most MA advantageous program. BEM 105 provides:

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. Therefore, you must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105 (October 1, 2014) p. 2.

The Requirements for Freedom to Work, if a disabled individual is eligible, afford that person the ability to work and be eligible for full Medicaid or a premium, if the earned income reaches certain levels as defined in the policy. Freedom to Work is an SSI Group 1 MA program. The requirements of the program are found in BEM 174 and provide:

FTW is available to a client with disabilities age 16 through 64 who has earned income.

Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met in the calendar month being tested. BEM 174 (July 1, 2013) p. 1.

Some of the other requirements also require that the Claimant's unearned net income cannot exceed 100 % of the Federal Poverty Level (FPL), or net earned income cannot exceed 250% of the FPL. Once a disabled individual is deemed eligible, Medicaid coverage is available; and, for those whose income exceeds 250% of the FPL may have a monthly premium based upon earned income. BEM 174, p.2, (for premium amounts see BEM 174, p. 3.)

Because the Department did not consider the Claimant's eligibility for the Freedom to Work program at the time of the redetermination, the Department must reprocess the redetermination and determine the Claimant's eligibility for the period.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the Claimant's MA deductible and failed to consider the Claimant's eligibility for Freedom to Work at the redetermination.

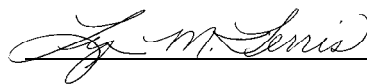
DECISION AND ORDER

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. The Department shall reprocess the redetermination and shall first determine whether the Claimant is eligible for the Freedom to Work program; and if eligible, shall activate the program effective [REDACTED]. If the Claimant is not deemed eligible for the Freedom to Work program, the Department shall recalculate the Claimant's deductible amount in accordance with this Hearing Decision and Department policy.
2. The Department shall provide the Claimant's AHR and Guardian written notice in accordance with Department policy of its eligibility determination as ordered.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/4/2015**

Date Mailed: **8/4/2015**

LMF / hw

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:

