

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-001568  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: March 16, 2015  
County: WAYNE-DISTRICT 49  
(GRAND RIVER/WAR)

**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. After due notice, a telephone hearing was held on March 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and [REDACTED], the Claimant's Authorized Hearing Representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Liaison, and [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Claimant's (Ronald Bradley's) Medical Assistance spend down?

**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 applied for Medical Assistance on [REDACTED].
2. The Claimant and his wife were a medical group of 2 persons.
3. The Department issued a Health Care Determination Notice dated [REDACTED], [REDACTED] finding the Claimant eligible for MA subject to a Spend Down of \$1428. Exhibit A.
4. The Claimant receives RSDI in the amount of \$1149 and a pension of \$79.52 for a total unearned income of \$1228.52. Exhibits B and C.

5. The Claimant's spouse also receives RSDI in the amount of \$751.90. Exhibit D. The total income used to calculate the Claimant's gross unearned income which was used in determining the spend down amount was \$1980.
6. Claimant presented medical bills in the amount of \$265 on [REDACTED]. Exhibit G.
7. The Department did not deduct court ordered child support.
8. The protected income limit for a group of 2 individuals living in Wayne County is \$500.
9. The Department calculated the Claimant's spend down amount to be \$1428 for January 2014 without including the medical expenses, as they were not submitted until [REDACTED]. The Department did not include the Medicaid Part B premium of \$104.90 for January 2015.
10. The Claimant requested a hearing on [REDACTED] protesting the MA spend down amount as determined by the Department.

### **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 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

#### **MA Deductible**

In this case, Claimant [REDACTED] requested a hearing to determine whether the Department properly calculated the Claimant's ([REDACTED]) spend down amount. The Claimant's wife's spend down amount was not part of the hearing request. During the hearing the Department verified Claimant's gross unearned income and pension to be \$1228.52 and his wife's gross income to be \$751.90, for a total gross monthly unearned income of \$1980. The Department testified that, although Claimant was not eligible for full-coverage MA, he was eligible for MA with a monthly \$1428 deductible for January 2015. Exhibit H. Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on the client's

shelter area and fiscal group size. BEM 105 (October 1, 2010), p 1; BEM 166 (October 1, 2010), pp 1-2; BEM 544 (August 1, 2008), p 1; RFT 240 (July 1, 2007), p 1. The monthly PIL for an MA group size of two living in Wayne County is \$500 per month. RFT 200 (July 1, 2007), p 1; RFT 240, p 1. Thus, if Claimant's net income is in excess of \$500, he may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$500. BEM 545 (July 1, 2011), p 2.

Policy also provides that when completing an SSI-related MA budget for adults the following items be considered and applied:

Department policy requires that the cost of any health insurance premiums be included when budgeting a spend down.

Count as a need item the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the **medical group** (defined in "EXHIBIT I") regardless of who the coverage is for. BEM 544 (July 1, 2013) p.1

As regards deducting child support as an MA deduction the Department policy provides:

#### **COURT ORDERED CHILD SUPPORT**

Deduct court-ordered child support paid by an initial person's spouse to a child who does not live with the fiscal group. The amount deducted is: the amount specified in the court order or the actual amount if less than the court order or the actual amount if more than the court order and the amount includes arrearages. Arrears must be paid on behalf of a dependent child to allow the deduction. BEM 541, (January 1, 2015) p. 1.

In this case, the Department produced an SSI-Related MA budget showing how the deductible in Claimant's case was calculated. As discussed above, Claimant's net unearned income totaled \$1960 after deducting a \$20 general exclusion. BEM 530 (October 1, 2012), p 1; BEM 541 (January 1, 2011), p 3. The evidence at the hearing showed that Claimant had not presented the Department with any medical expenses for January at the time the budget was prepared, but the Claimant did submit \$265 of ongoing medical expenses that were applied in March 2015. Evidence was available that the Claimant paid child support which ended in March or April 2015. The Department's budget did not consider child support expenses when computing the Claimant's spend down and thus the budget must be re-computed to consider if any child support payments must be deducted. As a deduction for child care was not considered, the net income as calculated cannot be determined as correct.

The Department did compute the unearned income from RSDI and pension and properly included the Claimant's wife's RSDI income in the amount of \$751.90. Once the Department determines whether the child support deduction must be made, the Claimant's deductible spend down will be the amount Claimant's net income exceeds the protected income level. Also because the Claimant pays the Part B premium, the Department should have included the Medicare Part B for January if applicable and paid by the Claimant, in accordance with Department policy. The Claimant can also claim other insurance premiums paid for health care but only after those expenses are verified and provided to the Department. At the time of the hearing the Claimant's wife indicated there were additional insurance premiums that were paid, these expenses will be considered for inclusion in the Claimant's spend down budget when verification of the expense is received.

Lastly, the Department did not consider the medical expenses presented to it on [REDACTED] for inclusion in the January 2015 budge. These expenses should be included in the January 2015 spend down budget as medical expenses and would also have reduced the deductible in that month in accordance with Department policy. Clearly the budget provided by the Department at the hearing was prepared before the medical expenses were received in late January.

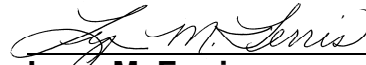
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it did not consider child support payments paid by the Claimant and did not include the Medicaid Part B premium for January if paid by the Claimant.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED** with respect to its calculation of the Claimant's spend down budget

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 re calculate the Claimant's spend down and include applicable child support payments, and Medicare Part B premiums for January 2015 if paid by the Claimant.
2. The Department shall provide Notice to the Claimant of any changes in the Claimant's spend down made as a result of this Hearing Decision.



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

Date Signed: **4/13/2015**

Date Mailed: **4/13/2015**

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

