

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

IN THE MATTER OF:

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Reg. No.: 15-003523
Issue No.: 2001
Case No.: ██████████
Hearing Date: April 29, 2015
County: MACOMB-DISTRICT 20
(WARREN)

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 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, ██████████, the Claimant's spouse, also appeared as a witness. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ Hearing Facilitator.

ISSUE

Did the Department properly determine the Claimant's Medical Assistance deductible 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. The Claimant was an ongoing recipient of Medical Assistance. The Claimant completed a redetermination in February 2015 and the Department changed the Claimant's Medical Assistance from full Medicaid to a deductible program. The Claimant's spouse reported on the redetermination form that she pays health care premiums and the Department did not seek verification of the premium amount. Exhibit C.
2. The Claimant receives RSDI in the amount of \$1418 monthly and his wife receives unemployment benefits in the amount of \$492 monthly. The Claimant's total

monthly unearned income to calculate MA benefits deductible was \$1910. Exhibit A, B and D.

3. The Claimant lives in Macomb County and the Department correctly used the Protected Income Level (PIL) of \$541 for Macomb County when calculating the deductible. Exhibit D.
4. The Claimant requested a timely hearing on March 6, 2015 protesting the Department's actions.

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 \$1349 in March 2015 after review of the Claimant's redetermination information. The MA budgets and deductible amount for March 2015 and April 2015 were reviewed and the net income amount of \$1910 was determined to be correct. The Claimant's fiscal group's total income less the unearned income general exclusion of \$20 was applied and net income \$1890 was correct.

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 Macomb County is \$541 per month. RFT 200 (July 1, 2007), p 1; RFT 240, (December 1, 2013) p. 1.

Thus, if Claimant's net income is in excess of \$541, he may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$541. BEM 545 (July 1, 2011), p 2.

In this case, the Department produced an SSI-Related MA budget showing how the deductible in Claimant's case was calculated. Exhibit D. As discussed above, Claimant's net unearned income totaled \$1890. After deducting \$20 general exclusion and a \$24 COLA exclusion amount, the Claimant's countable income was \$1866 for April 2015. It is noted that the COLA exclusion was not included in the March 2015 MA budget. BEM 530 (October 1, 2012), p 1; BEM 541 (January 1, 2011), p 3.

Because Claimant's net countable income of \$1866 for MA purposes exceeds the monthly protected income level of \$541 by \$1325, it is determined that the Department properly calculated Claimant's monthly MA deductible for April 2015 in accordance with Department policy, except did not include the cost of health insurance as an expense.

In the March 2015 budget no \$24 COLA exclusion was applied by the Department, but a \$24 COLA exclusion was included in the April 2015 budget. Exhibit D. The Department could not explain why the COLA exclusion was not included in the March 2015 budget, and thus the March budget must be reviewed to determine whether the COLA exclusion should also be included in the March 2015 budget.

In addition the Claimant reported as part of the redetermination that his wife has medical insurance coverage; however, the cost associated with the insurance was never verified by the Department. The Department must seek verification of these items at redetermination or if new information is reported, and failed to do so; thus, the Claimant is entitled to have any health care premiums associated with the medical insurance coverage for his wife included in the March and April 2015 MA budgets as an expense as soon as the cost of the premium is provided by the Claimant. (BAM 130 (July 1, 2014) p. 1. Lastly the Protected Income Level of Macomb County of \$541 was correct.

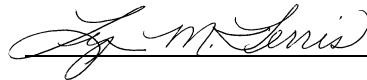
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it excluded COLA for the March 2015 deductible budget and also failed at the time of the Redetermination to verify the amount of health care premiums paid by the Claimant's spouse for health care coverage and include the cost of the insurance premium as an expense when calculating the 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. The Department shall recalculate the MA deductible budgets for March 2015 and April 2015 and shall include the amount of the health care premium when recalculating the budgets. The Department shall also include COLA in the amount of \$24 in the March 2015 budget.
2. The Department shall provide the Claimant with notice of the new deductible amount it determines after compliance with this Decision and Order.



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

Date Signed: **5/22/2015**

Date Mailed: **5/22/2015**

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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.

