

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-009796
Issue No.: 2001
Case No.: ██████████
Hearing Date: July 16, 2015
County: WAYNE-17

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 July 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Assistance Payments Worker.

ISSUE

Due to excess income, did the Department impose a \$523 deductible for the Medical Assistance (MA) program?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant received MA benefits.
2. On May 26, 2015, the Department found Claimant eligible for MA benefits with a deductible of ██████████
3. On May 26, 2015, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.

4. On May 29, 2015, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, 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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 Health and Human Services (formerly known as the Department of Human Services) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

With regard to the MA eligibility determination, the State of Michigan has set guidelines for income, which determine if an MA group is eligible. Claimant is not eligible for Group 1 Medicaid. Net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. BEM 105 pg. 1 (2014).

For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545, pg. 1 (2015).

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166, pg. 2 (2013). The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544, pg. 1 (2013).

An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in RFT 240. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess

income to be eligible for MA, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

The MA budgets included Claimant's earned and unearned income. Per policy, this income must be counted as income to the group. However, after reviewing the budgets, the Administrative Law Judge has found several errors.

First, it should be noted that the MA deductible budget supplied and the Claimant's notice of case action contain two separate deductible amounts. No explanation was provided for the discrepancy.

Second, Claimant's MA budget deductible was calculated using child support income received by Claimant's dependent. Per policy found in BEM 500, pg. 6 (2015), child support is income to the child for whom the support is paid; in this case, that child support would not be considered the Claimant's income. BEM 536, pg. 3 (2014) instructs the Department to only use countable child support income in a deductible budget. Furthermore, each person in the household is an individual fiscal group, with their own income. Because this income was not the Claimant's, it was not countable income in the Claimant's budget for his individual fiscal group, and should not have been used.

Therefore, the Department's determination that Claimant only becomes eligible for Group 2 MA when the excess income of [REDACTED] is spent, was incorrect.

The Administrative Law Judge, based upon 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 used the child support income and imposed a deductible of [REDACTED].

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. Reprocess Claimant's MA eligibility and recalculate Claimant's MA deductible budget, retroactive to the date of negative action, and in accordance with the findings in the above Conclusions of Law.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/12/2015**

Date Mailed: **8/12/2015**

RJC/tm

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]