

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018573
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: November 25, 2015
County: WAYNE-DISTRICT 18

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

Following Petitioner'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 November 25, 2015, from Detroit, Michigan. The Petitioner appeared pro se. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payments Supervisor.

ISSUE

Due to excess income, did the Department properly impose a \$1910 and \$947 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. Petitioner applied for MA benefits on August 17, 2015.
2. On September 14, 2015, the Department found Petitioner eligible for MA benefits with a deductible of [REDACTED] and another group member eligible for MA benefits with a deductible of [REDACTED]; this was later reduced to [REDACTED] and [REDACTED] respectively.
3. On September 14, 2015, the Department sent Petitioner/Petitioner's Authorized Representative (AR) its decision.
4. On September 25, 2015, Petitioner/Petitioner'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. Petitioner 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 Department failed to include evidence to support the findings in the matter. While the Department did provide evidence of Petitioner's household income, it did not include evidence of the calculations used to determine Petitioner's eligibility, deductible, or program eligibility. As such, the Department has failed to show that it acted properly in the current matter.

While other issues were discussed, including the availability of certain income in a conservatorship account, these issues are not ripe for decision, as the undersigned has no evidence that the income in question was actually used in determining Petitioner's budget. The undersigned cannot make a determination as to whether this income was properly included without evidence showing that it was actually used and in what manner.

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 failed to meet its burden of proof in showing that it acted in accordance with Department policy when it 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 Petitioner's MA eligibility and recalculate Petitioner's MA deductible budget, retroactive to the date of negative action.



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

Date Signed: **12/2/2015**

Date Mailed: **12/2/2015**

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:

