



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 4, 2016
MAHS Docket No.: 15-019251

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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, an in-person hearing was held on February 23, 2016, in Beulah, Michigan. Petitioner personally appeared and testified. [REDACTED] also testified on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by Assistance Payment Supervisor [REDACTED] and Eligibility Specialist [REDACTED]

ISSUE

Did the Department properly determine Medicaid (MA) eligibility for Petitioner by finding the community spouse’s income exceeds the allowed maximum?

FINDINGS OF FACT

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

1. On July 14, 2015, the Department issued Petitioner a Long-Term Care Medicaid Redetermination Notice. The Notice requested “[p]roof of all expenses such as all shelter expenses for a spouse that is not in the nursing home, including rent or mortgage payment, past year of property taxes and homeowners/renters insurance, current utility bills and heat bills, health or medical insurance premium, or guardianship or conservator expenses.” (Dept Exh. A, p 37).
2. On July 30, 2015, Petitioner’s husband submitted the Redetermination. (Hearing Summary, Dept. Exh. A, p 1).

3. There were no copies of self-employment expenses with the Redetermination. (Hearing Summary, Dept. Exh. A, p 1).
4. On September 28, 2015, the Department issued a Health Care Coverage Determination Notice to Petitioner indicating: 12/1/2014 – 7/31/2015 (with a [REDACTED] monthly patient pay); 8/1/2015 – 8/31/2015 (with a [REDACTED] patient pay); 9/1/2015 – 9/30/2015 (with a [REDACTED] patient pay); 11/1/2015 – ongoing (with a [REDACTED] monthly patient pay). (Dept. Exh. A, pp 4-6).
5. On October 9, 2015, Petitioner submitted a hearing request contesting the patient pay amounts. (Dept. Exh. A, p 3).

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's Eligibility Specialist credibly testified that Petitioner failed to timely submit self-employment expenses. Petitioner's husband credibly testified that he was never asked to submit self-employment expenses. The Long-Term Care Medicaid Redetermination Notice was submitted at the hearing in support of the Department's position that Petitioner was asked to provide self-employment expenses. The paragraph pointed to in support of requesting self-employment expenses on the Notice is:

Proof of all expenses such as all shelter expenses for a spouse that is not in the nursing home, including rent or mortgage payment, past year of property taxes and homeowners/renters insurance, current utility bills and heat bills, health or medical insurance premium, or guardianship or conservator expenses. (Dept Ex. A, p 37).

This Administrative Law Judge finds that the Notice does not ask for proof of employment or self-employment expenses.

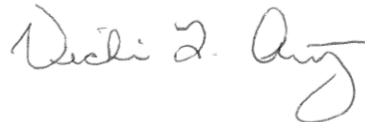
Based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, this Administrative Law Judge finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's pay amounts without Petitioner's husband's self-employment expenses.

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. Issue Petitioner a new Verification Checklist specifically requesting self-employment expenses.
2. Redetermine Petitioner's patient pay amounts based on the received information.
3. Issue an updated Long-Term Care Medicaid Redetermination Notice after redetermining Petitioner's patient pay amounts.



VA/db

Vicki L. Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

[REDACTED]

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[REDACTED]
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