

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 201026368
Issue No. 2014
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 20, 2010
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on Wednesday, October 20, 2010. The claimant personally appeared and testified with his daughter, [REDACTED], as his authorized representative.

ISSUE

Did the department properly determine that the claimant was not eligible for the Medical Savings Program (MSP) as a result of excess income?

FINDINGS OF FACT

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

1. On May 5, 2009, the claimant applied for Medical Assistance (MA).
2. Subsequently a Medicaid deductible case was opened.
3. The claimant receives [REDACTED] in RSDI income. (Department Exhibit 2)
4. The claimant receives [REDACTED] in pension benefits. (Department Exhibit 5)

5. On December 1, 2009, the department calculated the claimant's eligibility for the MSP program:
 - The department budgeted [REDACTED] of unearned income for the claimant minus a [REDACTED] deductible for a net unearned income of [REDACTED].
 - The income for the MSP program is [REDACTED] where the claimant's net income of [REDACTED] failed the income test.
6. On December 1, 2009, the department caseworker sent the claimant a notice that his application was denied.
7. On January 5, 2010, the department received a hearing request from the claimant, contesting the department's negative action.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department's program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

DEPARTMENT POLICY MA Only

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2.

This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

1. **Qualified Medicare Beneficiaries**
This is also called full-coverage QMB and just QMB.
Program group type is QMB.
2. **Specified Low-Income Medicare Beneficiaries**
This is also called limited-coverage QMB and SLMB.
Program group type is SLMB.

3. Q1 Additional Low-Income Medicare Beneficiaries
This is also referred to as ALMB and as just Q1.
Program group type is ALMB.

There are both similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ.

Income is the major determiner of category.

QMB	Net Income cannot exceed 100% of poverty.
SLMB	Net income is over 100% of poverty, but not over 120% of poverty.
ALMB (Q1)	Net income is over 120% of poverty, but not over 135% of poverty.

A person who is eligible for one of these categories **cannot** choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB **cannot** choose SLMB instead.

All eligibility factors must be met in the calendar month being tested. BEM 165, p. 1.

MEDICARE SAVINGS PROGRAMS INQUIRY

A person may wish to know whether MA will pay Medicare premiums before enrolling in Medicare. The person may even contact the Department before reaching age 65 (example, during the three months before the person's 65th birthday).

Advise persons listed under "Automatic QMB" above that MA will pay their Medicare premium.

Do a determination of eligibility for all other persons. In doing this determination:

- Explain the nonfinancial eligibility factors. Assume they will be met.

- Use current information to determine financial eligibility. Do **not** ask for verification.
- Explain that changes may affect the actual determination of eligibility. Be sure to discuss asset policy thoroughly if the person's assets exceed the limit.

Income Eligibility

Income eligibility exists when net income is within the limits in RFT 242 or 249. Income eligibility **cannot** be established with a patient-pay amount or by meeting a deductible.

Determine countable income according to the SSI-related MA policies in BEM 500 and 530, **except** as explained in "COUNTABLE RSDI" below. Apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income.

COUNTABLE RSDI

Federal law requires that for January, February and March:

- The RSDI cost-of-living increase received starting in January be disregarded for fiscal group members, and
- The income limits for the preceding December be used.

For all other months, countable RSDI means the countable amount for the month being tested.

For all other persons whose income must be considered, the RSDI cost-of-living increase is **not** disregarded.

Countable RSDI

Enter countable RSDI for the month being tested. When the month being tested is January, February or March Bridges will automatically:

- Computes and deducts the RSDI cost-of-living increase for fiscal group members, and
- Uses the limits for the preceding December.

Note: An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. See BAM 115 and 220. BEM 165, p. 6

This Administrative Law Judge has reviewed the record based on the information provided by the department. The claimant receives ██████ in Social Security RSDI benefits and an additional ██████ in a pension for a gross income of ██████ instead of the ██████ allocated by the department as unearned income. As a result, with the ██████ unearned income general exclusion, the claimant would have ██████ in net unearned income, which would make him qualify for the Medical Savings Program based on the information provided by the department.

Therefore, the Administrative Law Judge finds that the department has not established that it was acting in compliance with department policy when it determined that the claimant was not eligible for the MSP program as a result of excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied the claimant's application for MSP because of excess income.

Accordingly, the department's decision is **REVERSED** and the department is ordered to redetermine the claimant's eligibility for the Medical Savings Program retroactive to December 2009.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: January 3, 2011

Date Mailed: January 3, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

201026368/CGF

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CGF / vc

cc:

