

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: 2011-13536

Issue No: 2026

[REDACTED]

[REDACTED]

Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED]. The claimant appeared, along with her husband and provided testimony. The claimant was represented by [REDACTED].

ISSUES

Did the department properly determine the claimant's MA deductible?

FINDINGS OF FACT

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

1. The claimant applied for MA/retro MA on September 16, 2010. (Department Exhibit 107 – 124)
2. The claimant's husband is the sole shareholder of an incorporated business.
3. The claimant submitted the 2009 corporate tax return as requested by the department. The claimant did not submit receipts to show the expenses claimed on the tax forms. (Department Exhibit 30 – 66)
4. The department budgeted the gross amount of sales or receipts as the claimant's income and then deducted [REDACTED] for self-employment expenses. (Department Exhibit 11 – 16)

5. This resulted in a monthly deductible for the claimant in the amount of [REDACTED]. The claimant was notified of this in an October 19, 2010 Notice of Case Action (DHS-1605). (Department Exhibit 20 – 24)
6. [REDACTED] submitted a hearing request on behalf of the claimant on December 28, 2010.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Deductible Period

Each calendar month is a separate spend-down period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. BEM 545, pp. 8-9.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "**EXHIBIT I**") that equal or exceed the deductible amount for the calendar month tested. BEM, Item 545, p. 9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. BAM 130 explains verification and timeliness standards. BEM, Item 545. p. 9.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). BEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. 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.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Program Reference Table (PRT). 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. In this case, the department determined the claimant was self-employed and budgeted the claimant's gross profits for the corporation, allowing a deduction of 25% for self-employment expenses (per BEM 502). This resulted in a monthly deductible for the claimant of \$36,366.00.

However, the proper department policy was not applied to the client's situation. The claimant's husband is the sole shareholder of a corporation (RIT Music). A corporation is not treated like a sole proprietorship or personally-owned business. A corporation is defined in pertinent part as "an organization formed with state governmental approval to act as an artificial person to carry on business (or other activities)...." This means that a corporation acts as its own entity. Therefore, in this case, the corporation's gross profits would not be the income to the claimant, but to the corporation. Rather, the income to the claimant is the amount of the claimant's salary that he is paid each pay period. The corporation is the claimant's husband's asset.

Department policy does require assets to be considered in determining eligibility for FIP-related MA. BEM 400. Thus, the claimant must provide the department with a value of the asset in question, the corporation. Once this information is provided, the department must determine if the claimant passes the asset test for MA. If the claimant passes the asset test, the department would then determine the deductible by looking at the household's income, including all sources of earned and unearned income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly determined the claimant's MA deductible.

Therefore, the department's determination is REVERSED. The department shall:

1. Re-process the claimant's MA/retro MA application, considering the corporation as an asset of the claimant's husband and the salary he receives from the corporation as his income.
2. Determine the claimant's asset eligibility for MA purposes by obtaining a value of the corporation from the claimant or his designee.
3. Issue the claimant written decision of the new eligibility determination.

SO ORDERED.

_____/s/_____
Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/10/11

Date Mailed: 5/10/11

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.

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.

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