

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.: 2011-16207
Issue No.: 2017
Case No.: [REDACTED]
Hearing Date: February 28, 2011
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 February 28, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's eligibility for Medicare Savings Program (MSP) benefits due to excess income.

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 was an ongoing Medical Assistance (MA) benefit recipient.
2. Part of Claimant's MA benefits included eligibility for Medicare Savings Program (MSP).
3. Claimant received \$1285/month in gross Retirement, Survivors, Disability Insurance (RSDI) (see Exhibit 1).
4. On 10/29/10, DHS determined that Claimant was not eligible for MSP effective 11/2010 due to excess income (see Exhibit 2).
5. On 11/04/10, Claimant requested a hearing disputing the determination of MSP benefit eligibility.

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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them. MSP is part of the MA benefit program.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, deductibles and coinsurances. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHS funding is available.

The type of MSP coverage a client receives depends on the client's income. BEM 165 at 2. Countable income for MSP is calculated according to the SSI-related MA policies in BEM 500 and 530. BEM 165 at 6. DHS is to apply the deductions in BEM 541 (for adults) to countable income to determine net income.

It was not disputed that Claimant received \$1285/month in gross RSDI income. For all programs, the gross amount of RSDI is countable income. BEM 503 at 20. Claimant received a \$20 unearned income disregard making Claimant's monthly net unearned income \$1265/month. BEM 541 at 3.

The only other factors within an MSP determination are: earned income (RFT 541 at 3) guardianship or conservator expenses (see *Id.* at 4) and unearned allocation to non-SSI children (*Id.* at 2). It was not disputed that these factors did not apply to Claimant's MSP eligibility.

Income eligibility for MSP exists when a client's net income is within the limits as found in RFT 242. The net income limit for MSP eligibility is \$1219/month. RFT 242 at 1. Claimant's net income (\$1265) exceeds the net income limits for MSP eligibility.

Claimant contended that she is eligible for MSP benefits because her net income is less than the net income limits for MSP eligibility. Claimant logically defined "net income" as the amount of RSDI she receives after Social Security Administration takes out \$96.50

for her Medicare premium (\$1285-\$96.50); in other words, her take home income. Claimant's definition is sensible and probably supported by Webster's Dictionary. For purposes of this decision, the undersigned must rely on what DHS regulations define as "net income". Using the DHS definition of "net income" for MSP eligibility, DHS properly determined Claimant to be over-income for MSP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's eligibility for MSP benefits effective 11/2010 due to excess income. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/3/2011

Date Mailed: 3/3/2011

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.

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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