

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

IN THE MATTER OF:



Registration. No: 2011-36083
Issue Nos: 2013; 2026
Case No: [REDACTED]
Hearing Date: June 28, 2011
Newaygo County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1979 AC, R 400.903. Claimant requested a hearing on May 16, 2011, and, after due notice, one was held on June 28, 2011. Claimant's hearing representative appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly determined that Claimant was eligible for Medical Assistance (MA), but with a deductible.

FINDINGS OF FACT

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

1. Prior to May 1, 2011, Claimant was receiving MA as a result of also receiving Supplemental Security Income (SSI) from the federal Social Security Administration (SSA).
2. At some point, the Department was made aware that Claimant's SSI benefits were being terminated, apparently due to an excess income determination by the SSA. (Department's hearing summary, dated May 18, 2011.)
3. At some point, Claimant submitted a new application for MA to the Department.
4. On March 28, 2011, the Department notified Claimant that his SSI recipient MA was being terminated, effective May 1, 2011. (Department's exhibit D-4.) On the

same date, the agency informed Claimant that he was approved for MA, but only after satisfying a monthly [REDACTED] deductible. (Department's exhibits D-5; D-6.)

5. Claimant filed a request for hearing to contest the MA deductible determination on May 16, 2011.

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1979 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1).

An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.¹

Here, the Department determined that after Claimant's SSI benefits were terminated, he remained eligible for MA, but only after satisfying a [REDACTED] monthly deductible. From this determination, Claimant filed a request for hearing asserting that he was entitled to MA with no deductible.

The MA program was established by Title XIX of the Social Security Act, 42 USC 1396, *et seq.*, and is implemented through federal regulations found in the Code of Federal Regulations, 42 CFR 430, *et seq.* The Department administers the MA program under MCL 400.10, *et seq.*, and MCL 400.105. Department policies developed from this authority are found in the BAM, the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The MA program provides medical assistance to individuals and families who meet the program's financial and nonfinancial eligibility factors. BEM 100, p. 2. The goal of MA is to ensure that essential health care services are made available to those who otherwise would not have the financial resources to purchase them. BEM 100, p. 2; BEM 105, p. 1. The program is comprised of several sub-programs or categories. One category is Family Independence Program (FIP) recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for those categories are based on the eligibility factors in either the FIP or SSI program. Therefore, those categories are referred to as either FIP-related or SSI-related. BEM 105, p. 1.

¹ All policy citations are to Department of Human Services (Department) policy in effect at the time of the agency action in issue.

Families with dependent children and caretaker relatives of dependent children receive MA under FIP-related categories. BEM 105, p. 1.

SSI is a cash benefit for needy individuals who are aged (at least 65), blind, or disabled. The federal SSA determines SSI eligibility. In Michigan, the Department supplements federal SSI payments based on a client's living arrangement. BEM 150, p. 1. To be automatically eligible for MA, an SSI recipient must be both a Michigan resident and cooperate with third-party resource liability requirements. BEM 150, p. 1. The Department administers MA for SSI recipients, including the determination of MA eligibility if and when SSI benefits end. BEM 150, p. 1. SSI recipients who are Michigan residents receive MA for the duration of SSI eligibility. BEM 150, p. 5.

When SSI benefits are terminated, the Department evaluates the reason based on SSA's negative action code, then does one of the following:

- MA-SSI is closed if SSI stopped for a reason that prevents continued MA eligibility (e.g., death, moved out of state).
- SSI cases not closed due to the policy above are transferred to the SSI termination type of assistance. A redetermination date is then set for the second month after transfer.

BEM 150, p. 5

In other words, once a person is deemed by the SSA to no longer be eligible for SSI, the Department must determine whether that person remains eligible for MA.

Here, Claimant was receiving MA based on his receipt of SSI benefits. At some point, the Department received information from the SSA that Claimant's SSI benefits were terminated. Although it was not made clear at the time of hearing, it appeared the basis for SSI termination was excess income. The Department was thus required to determine whether Claimant remained eligible for continued MA benefits. BEM 150, p. 5.

MA is available to parents and other caretaker relatives who meet certain nonfinancial and financial eligibility factors (Group 2). BEM 135, pp. 1-2. The State of Michigan established guidelines for income, which in turn determine whether an MA group is eligible for benefits. BEM 545, p. 1. Income eligibility exists when:

- net income does not exceed the Group 2 needs set forth in BEM 544², or
- allowable medical expenses equal or exceed excess income – (this pertains to the MA deductible program discussed below.)

² Net income is countable income minus allowable income deductions. BEM 105, p.1.

BEM 135, p. 2; BEM 545, p. 1.

Based on credible testimony provided by the Department in the present matter, it was determined that, following SSI termination, Claimant met all the requirements for MA under the Group 2 caretaker relative category, except for the financial factor of income eligibility – his group's net income exceeded its Group 2 needs under BEM 544.³ See BEM 135, pp. 1-2.

To be eligible for Group 2 MA, the group must have net income that is the same or less than the applicable protected income level as established under RFT 200 and RFT 240.⁴ See BEM 544, p 1; BEM 545, pp 1-2. Conversely, the group is ineligible for MA when its monthly net income exceeds the protected income level.

An MA Group 2 having determined excess income may, however, become eligible for assistance under the deductible program. See BEM 545. The deductible program is a process that allows a person or group with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545, p. 8. The fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 9. Each calendar month is a separate deductible period. BEM 545, p. 8.

Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month in issue. The group must report expenses by the last day of the third month following the month in which the group wants MA coverage. BEM 545, p.9. See also 42 CFR 435.831.

Here, under the MA deductible program, Claimant was determined eligible for assistance, but only after satisfying a monthly [REDACTED] deductible – calculated using the group's net income, the Group 2 MA needs under BEM 544 and the tables in RFT 200 and RFT 240.

Claimant provided, however, no specific objection to, or evidence contradicting, the Department's determination of income eligibility or the actual deductible amount. Rather, Claimant merely objected to being forced to satisfy the [REDACTED] monthly deductible before receiving MA benefits. The Administrative Law Judge is bound by the laws and regulations governing a person's eligibility for MA, on which the Department's policies are based. See Delegation of Hearing Authority, dated February 22, 2011. Moreover, in the absence of an express legislative conferral of authority, an administrative agency generally lacks powers grounded in equity. *Delke v Scheuren*, 185 Mich App 326, 332; 460 NW2d 324 (1990), citing *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542; 303 NW2d 35 (1981). No such equitable powers exist here. While

³ Claimant's group, for purposes of determining his Medical Assistance (MA) eligibility, consisted of himself and his wife. BEM 211, pp 4. 5.

⁴ RFT 240 lists the protected income levels for Group 2 MA based on shelter area and fiscal group size. RFT 200 lists the Michigan counties in each shelter area. BEM 544, p. 1.

Claimant's objection to the payment of a monthly deductible before receipt of MA benefits is certainly understandable, he provided no evidence establishing that the agency's excess income and deductible calculations were in error, incorrect, or otherwise improper.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge concludes that the Department properly determined Claimant's MA income eligibility and monthly deductible amount.

The Department's action is UPHELD.

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: **July 12, 2011**

Date Mailed: **July 12, 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.

Claimant may appeal this Decision and Order to the Circuit Court for the county in which he/she resides within 30 days of the mailing of this 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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