

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.: 2011-3675
Issue No.: 2026/2017
Case No.: [REDACTED]
Hearing Date: January 26, 2011
Wayne County DHS (35)

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 January 26, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Medical Assistance (MA) benefits as Medicaid subject to a monthly deductible of \$616/month.

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 MA benefit recipient receiving ongoing Medicaid.
2. Claimant received \$1101/month in Retirement, Survivors, Disability Insurance (RSDI) for being a disabled individual.
3. On an unspecified date, DHS determined that Claimant was eligible for Medicaid subject to a \$616/month deductible.
4. On 10/8/10, Claimant requested a hearing disputing the determination of her MA 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.

A recipient with excess income for ongoing Medicaid may still be eligible for Medicaid under the deductible program. Clients with a Medicaid deductible may receive Medicaid 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. BEM 545 at 9. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

Claimant contended that she previously received ongoing Medicaid and cannot understand why her benefits were reduced when her circumstances have not changed. The undersigned understands why Claimant would be puzzled by a reduction of benefits if her circumstances are unchanged. However, what Claimant used to receive in MA benefits has no effect on the DHS determination that Claimant is now eligible for Medicaid subject to a monthly deductible. The correctness of the determination that found that Claimant is eligible for Medicaid subject to a deductible is an appropriate decision for administrative review.

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. As a disabled person, Claimant may qualify for MA benefits through Aged-Disabled Care (AD-Care) or Group 2 Spend-Down (G2S).

It was not disputed that Claimant's gross monthly income was \$1101 from RSDI income. DHS is to count the gross RSDI benefit amount as unearned income. BEM 503 at 20.

DHS regulations allow for various income disregards. In the present case, the only applicable disregard is a standard \$20 income disregard given to all potential AD-Care recipients. Claimant's net income for purposes of AD-Care is found to be \$1081/month, the same as calculated by DHS.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163. The net income limit for AD-Care for a one person MA group is \$903/month. RFT 242. Claimant's net income exceeds the AD-Care income limit. It is found that DHS properly determined Claimant to be ineligible for AD-Care based on excess income.

Claimant may still receive MA benefits subject to a monthly deductible through the G2S program. The deductible is calculated by subtracting Claimant's Protected Income Level (PIL) from Claimant's MA net income. The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. Claimant's PIL is \$375. RFT 240 at 1. Claimant's insurance premiums are also deducted for the G2S calculation. Subtracting Claimant's PIL (\$375) and insurance premium (\$110) from Claimant's net income (\$1081) results in a monthly deductible of \$596.

DHS testified that Claimant's deductible was \$616/month. DHS failed to provide any documents which verified Claimant's deductible amount. The undersigned suspects that the DHS testimony of Claimant's deductible amount was based on a guess rather than on reliable evidence. As the undersigned calculated an amount different than what DHS stated, it is appropriate to reverse the actions of DHS.

The undersigned also fails to understand why Claimant would be responsible for a Medicare Part B premium expense when Claimant appears to be eligible for a Medicare Savings Program (MSP). Medicare Savings Programs are part of the MA program and offer various degrees of assistance by DHS toward the payment of a client's Medicare premium. 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. Claimant's net income is less than the income limit 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 determined that Claimant had excess income for ongoing Medicaid through the MA program. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's deductible and failed to provide

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evidence of Claimant's eligibility for Medicare Savings Program. It is ordered that DHS shall redetermine Claimant's eligibility for G2S and MSP by providing income tests (i.e. budgets) concerning Claimant's MSP and G2S eligibility. The actions taken by DHS are PARTIALLY REVERSED.

Christian Gardocki

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

Date Signed: 2/3/2011

Date Mailed: 2/3/2011

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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