

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-39206

Issue No: 3003, 2026

[REDACTED]

Eaton County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "Claimant") request for a hearing received on June 17, 2011. After due notice, a telephone hearing was held on August 2, 2011. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine Claimant's Medical Assistance (MA) deductible amount?

FINDINGS OF FACT

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

1. Claimant was receiving FAP in the amount of [REDACTED] per month and MA at all times pertinent to this hearing. (Hearing Summary). At the time, Claimant had [REDACTED] in net unearned income from SSI.
2. On May 9, 2011, the department received Claimant's Redetermination form (DHS-1010). (Department Exhibit 1). According to the DHS-1010, Claimant had a group size of 1 (one) and received RSDI in the amount of [REDACTED] per month from RSDI from her deceased husband and [REDACTED] per month from her late husband's pension. (Department Exhibit 1).
3. On June 9, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) which, among other things, determined that Claimant's MA-Group 2 was a [REDACTED] per month deductible. (Department Exhibits 5-9).

4. On June 16, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) which increased Claimant's FAP to [REDACTED] and notified Claimant that the department used Claimant's home help expenses [REDACTED] to meet the MA spend down for July 1, 2011. (Department Exhibits 13 & 14).
5. On June 17, 2011, Claimant submitted a hearing request challenging the [REDACTED] MA deductible.¹ (Request for a Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The MA program is also referred to as Medicaid. BEM 105. 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. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. For MA only, a client and the client's community spouse have the right to request a hearing on an initial asset assessment only if an application has actually been filed for the client. BAM 105. Families with dependent children, caretaker relatives of

¹ During the hearing, the claimant indicated that she no longer wished to challenge the department's FAP determination.

dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. BEM 105.

For purposes of MA in general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 105. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. The income limit, which varies by category, is for nonmedical needs such as food and shelter. BEM 105. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. BEM 105. For Group 2, eligibility is possible even when net income exceeds the income limit. BEM 105. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105.

BEM 544 applies to all FIP-related and SSI-related Group 2 MA categories. The department must use the appropriate protected income level (PIL) (defined below) for each fiscal group. BEM 544. The department may include other need items only when the fiscal group meets the requirements for them. BEM 544. The department shall then determine the fiscal group's total needs. BEM 544. The department will then look to BEM 545 to complete the income eligibility determination. BEM 544. The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544. RFT 240 lists the Group 2 MA PILs based on shelter area and fiscal group size. BEM 544.

A fiscal group is established for each person requesting MA (see BEM 211) and budgetable income is determined for each fiscal group member. BEM 536. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536.

For an MA recipient, a future month budget must be performed at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA. BEM 530. For an MA deductible client, a future month budget must be performed at redetermination and when a change occurs that may affect deductible status. BEM 530. Countable income is income remaining after applying MA policy in BEM 500. BEM 530.

Death benefits are money an individual receives from Social Security or an insurance company due to the death of another individual. BEM 503. A death benefit is unearned income. BEM 503. The department will enter as Death Benefit in both the unearned income logical unit of work and lump sum logical unit of work. BEM 503. Bridges counts the gross benefit minus the amount used to pay the last medical expenses and burial costs of the deceased individual. BEM 503.

For all types of assistance, other retirement income includes annuities, private pensions, military pensions, and state and local government pensions. BEM 503. The policies have specific sections in BEM 503 for policies regarding:

- Railroad Retirement Board benefits.
- Retirement, Survivors and Disability Insurance (RSDI).
- U.S. Civil Service and Federal Employee Retirement System. BEM 503.

According to BEM 503, the department shall count the gross benefit as unearned income. But allowances in pension benefits for the Medicare Part B premiums are not considered a reimbursement and should be included in the amounts entered in the Bridges unearned income logical unit of work. BEM 503.

Retirement, Survivors and Disability Insurance (RSDI), which is also referred to as Social Security Benefits, is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503. Bridges counts the gross benefit amount as unearned income. BEM 503. However, special rules apply when determining MA eligibility for certain former SSI recipients; see BEM 155, 503 Individuals, 156, COBRA WIDOW(ER)S, 157, EARLY WIDOW(ER)S and 158, DISABLED ADULT CHILDREN. BEM 503. These special rules do not apply to post-eligibility patient-pay amount calculations in BEM 546. BEM 503.

For all types of assistance, SSI is a benefit administered by the Social Security Administration. BEM 503. SSI is a means-tested program that can be received based on age, disability or blindness. BEM 503. Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds. BEM 503. The amount paid by the state and the payment process varies by living arrangement; see BEM 660, STATE SSI PAYMENT. BEM 503.

For all types of assistance, Retroactive SSI benefits may be paid as a one-time payment or in installments over several months. SSA determines how the retroactive benefits will be paid. BEM 503. For MA purposes, retroactive SSI benefits are income in the month received: see BEM 400, Retroactive RSDI and SSI Exclusion about the income and asset exclusion for SSI-related MA. BEM 503.

The Department of Human Services must periodically redetermine an individual's eligibility for active TOA. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active TOA. However, the client must complete a DHS-1171, Assistance Application, to request a TOA that is not active at the time of redetermination. BAM 210. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification. BAM 210.

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 calendar 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. BAM 210.

A complete redetermination is required at least every 12 months. BAM 210. Bridges sets the redetermination date according to benefit periods, see eligibility decisions in BAM 115. BAM 210. Redeterminations may be scheduled early or are scheduled less than 12 months apart when necessary for:

- Error-prone cases, in response to supervisory case readings, quality assurance data or quality enhancement data.
- Medicaid (MA) only, newborn cases must be redetermined no later than the month of the child's first birthday; see BEM 145.
- Transitional Medicaid (TMA) redeterminations must be completed at least 40 days before the end of the 12-month eligibility period to accommodate TMA-Plus (TMAP); see BEM 647.
- Food Assistance Program (FAP) cases with unstable circumstances assigned a three-month benefit period.

For FAP only, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. If the client does not complete the redetermination process, allow the benefit period to expire. The redetermination process begins when the client files a DHS-1171, Assistance Application, DHS-1010, Redetermination, DHS-1171, Filing Form, or DHS-2063B, Food Assistance Benefits Redetermination Filing Record. BAM 210.

Benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210. Also, the redetermination month is 12 months from the date the most recent complete application was submitted. BAM 210.

In a Group 2 Persons Under 21 case, if a member will reach age 21 before the month the case is scheduled to be redetermined, an ex parte review (see glossary) should begin at least 90 days prior to the date the member turns 21; see BAM 220. BAM 210.

With regard to MA only, the department does not need to redetermine the following:

- Special N/support; see BEM 113.
- Title IV-E recipients; see BEM 117.
- Special needs adoption assistance recipients; see BEM 117.
- Department wards; see BEM 117.
- SSI recipients; see BEM 150.

A redetermination must be completed before closing an individual in one of the above categories if the closure is for any reason other than total ineligibility for any MA (such as moved out of state or death). The redetermination must consider eligibility in all other FIP and SSI related MA categories. BAM 210.

In the instant matter, Claimant did not challenge that she receives an additional [REDACTED] per month in social security payments from her late spouse. Nor does Claimant challenge the fact that the department must rebudget the increased income. She concedes the department's calculations as well. The fiscal group member was 1 (one). The total unearned income is [REDACTED], which includes her RSDI ([REDACTED]) plus the additional RSDI ([REDACTED]) from her deceased spouse and her [REDACTED] pension. Her monthly total net income is \$951.00 minus \$20 exclusion equals [REDACTED]. The Group 2AD-Care limit is [REDACTED]. RFT 242. Claimant lives in Eaton County, which is shelter

area V. RFT 200. According to RFT 240, the protected income limit (PIL) for a group size of 1 is [REDACTED]. The PIL subtracted from the net income is the remaining deductible. [REDACTED]. BEM 536. The appropriate MA deductible amount is [REDACTED].

Accordingly, this Administrative Law Judge finds that, based on material, competent and substantial evidence, the department properly determined the claimant's MA deductible amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's MA deductible amount.

The department's determination of Claimant's MA deductible amount of [REDACTED] is AFFIRMED.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/23/11

Date Mailed: 8/23/11

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

CAP/ds

[REDACTED]