

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201119104
Issue No: 2026, 2014
Case No: [REDACTED]

Hearing Date:
April 28, 2011
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 27, 2011. After due notice, a telephone hearing was held on Thursday, April 28, 2011.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. On January 6, 2011, the Claimant applied for SSI related Medical Assistance (MA) benefits.
2. The Claimant is disabled and she lives with her spouse.
3. The Claimant receives monthly Social Security benefits in the gross monthly amount of \$1,126.
4. The Claimant's spouse receives a monthly pension in the gross monthly amount of \$2,907.
5. The Department denied the Claimant Medical Assistance (MA) under the Adult Medical Program (AMP) due to excess income.

6. The Department completed a MA budget, which determined that the Claimant was eligible for MA benefits with a \$3,497 deductible.
7. The Department received the Claimant's request for a hearing on January 27, 2011, protesting the denial of Medical Assistance (MA) under the Adult Medical Program (AMP), and the amount of the patient deductible on her Medical Assistance (MA).

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Claimant receives monthly unearned income in the gross monthly amount of \$4,033, which is the total of the Claimant's Social Security benefits of \$1,126, and her spouse's monthly pension income of \$2,907. The income limit to receive Medical Assistance (MA) under the Adult Medical Program (AMP) for an independently living person and her spouse is \$425 per month. RFT 236. Therefore, the Department denied Medical Assistance (MA) under the Adult Medical Program (AMP) due to excess income.

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. 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. RFT 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 (RFT). 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.

A review of claimant’s case reveals that the Department budgeted correct amount of income received by the Claimant. Claimant’s “protected income level” is \$516, and this amount cannot be changed either by the Department or by this Administrative Law Judge. The Department’s determination that the claimant has a \$3,497 deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

The Claimant argued that the Department should not consider funds withheld from the husband’s pension as part of his gross income.

The Department considers all income to be countable that is not specifically excluded. BEM 500. Unearned income includes annuities, private pensions, military pensions, and state and local government pensions. BEM 503. Gross income includes amounts withheld from income which are any of the following:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered part of gross income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments. BEM 500.

The Claimant argued the portion of her husband's pension withheld for the benefit of his former spouse should not be considered gross income. The Claimant testified that her husband has no legal right to the withheld portion of his pension. The Claimant testified that these funds are not voluntarily withheld from his pension, but are withheld by court order. The Claimant provided a copy of an excerpt from the court order as verification of the reason these funds are withheld from his pension.

The funds withheld from the husband's pension are a legal obligation. The Department includes funds withheld to meet a legal obligation as gross income unless specifically excluded. Department policy does not specifically exclude funds withheld as a result of divorce proceedings from gross income.

This issue was previously decided upon in a previous administrative hearing (Reg. # 201115963). This Administrative Law Judge was unable to locate any authority to limit the countable income received by the Claimant's spouse to the income he has a right to receive.

It is not disputed that the Claimant's husband has no legal right to the portion of his military pension reserved for the benefit of a former spouse. This deduction from the husband's pension is the mandatory application of federal law.

As applied, Department policy requires that the Claimant's eligibility for benefits be calculated based on gross countable income even though it is not accessible by anyone living in her household. The claimant's grievance centers on dissatisfaction with the Department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies.

Therefore, this Administrative Law Judge must **AFFIRM** the Department's determination of the Claimant's eligibility for Medical Assistance (MA).

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 the Claimant's FAP eligibility.

The Department's FAP eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 17, 2011

Date Mailed: May 18, 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 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.

KS/tg

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