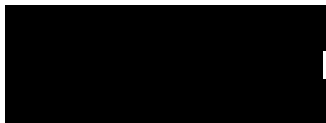


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201137563
Issue No: 2005, 2026
Case No: [REDACTED]
Hearing Date: July 19, 2011
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on July 19, 2011. The claimant appeared and provided testimony, along with his wife and sister.

ISSUES

Did the department properly place the claimant on a MA deductible case and his wife and child on an Emergency Services Only (ESO) MA deductible case?

FINDINGS OF FACT

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

1. The claimant and his wife/child applied for MA on April 7, 2011. (Department Exhibit 1)
2. A Verification of Employment (DHS-38) indicated that the claimant earned [REDACTED] per month salary. (Department Exhibit 2)
3. While the claimant has been a Permanent Resident since September 6, 2005, his wife and child did not come to the United States until December 22, 2010. (Department Exhibit 3)
4. The claimant was mailed a Notice of Case Action (DHS-1605) on May 9, 2011 that indicated the claimant was approved for MA with a deductible of [REDACTED]. The claimant's wife was approved for ESO MA with a deductible of [REDACTED] and the claimant's child was approved for ESO MA with a deductible of [REDACTED]. (Department Exhibit 4)

5. The claimant submitted a hearing request on May 25, 2011.

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) and the Program Reference Manual (PRM).

Department policy states:

All Programs

Determine the alien status of each noncitizen requesting benefits at application, member addition, redetermination and when a change is reported.

MA and AMP

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors including residency; see BEM 220.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status.

U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid; see BAM 130.

The alien status of each noncitizen must be verified to be eligible for full MA coverage; see CITIZENSHIP/ALIEN STATUS in this item.

MA coverage is limited to emergency services for any:

- Persons with certain alien statuses or U.S. entry dates as specified in policy; see CITIZENSHIP/ALIEN STATUS in this item.
- Persons refusing to provide citizenship/alien status information on the application.
- Persons unable or refusing to provide satisfactory verification of alien information.

Note: All other eligibility requirements including residency (BEM 220) **MUST** be met even when MA coverage is limited to emergency services.

CITIZENSHIP/ALIEN STATUS

FIP, SDA, MA and AMP

- Alien admitted into the U.S. with one of the following immigration statuses:
- Permanent resident alien with a class code on the I-551 other than RE, AM or AS.
- Alien paroled into the U.S. for at least one year under INA section 212(d)(5).

Exception (both statuses above): The eligibility of an alien admitted into the U.S. on or after August 22, 1996 with one of these statuses is restricted as follows unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien:

- **For FIP**, an individual is disqualified for the first five years in the U.S.

- **For SDA**, an individual is disqualified.
- **For MA and AMP** an individual is limited to emergency services for the first five years in the U.S.

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Deductible Period

Each calendar month is a separate spend-down period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. BEM 545, pp. 8-9.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "**EXHIBIT I**") that equal or exceed the deductible amount for the calendar month tested. BEM, Item 545, p. 9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. BAM 130 explains verification and timeliness standards. BEM, Item 545. p. 9.

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 (under the Deductible Guidelines). 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. PRT 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 (PRT). 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.

In this case, the claimant’s protected income level is [REDACTED] (with a group size of two—the claimant and his wife). The claimant’s net income is [REDACTED]. When the protected income limit is subtracted from the net income, this results in a deductible of [REDACTED], which the department accurately computed. This deductible amount is the same for the claimant’s wife, although she is only eligible for ESO MA benefits as she has not been in the country as a Permanent Resident Alien for more than five years (date of entry was December 22, 2010). BEM 225.

The claimant’s child is also only eligible for ESO MA benefits as she has not been in the country as a Permanent Resident Alien for more than five years (date of entry was December 22, 2010). BEM 225. The child’s deductible is computed with a net income of [REDACTED]. Because the child is in a fiscal group with both parents, the group size is three and the protected income limit is [REDACTED]. This results in a deductible of [REDACTED], which was accurately computed by the department.

The claimant testified that he could not afford the deductible amounts of each group member. The claimant and his witnesses also indicated that the claimant's child needed full MA, not just Emergency Services for routine care, such as doctor's visits and shots. However, Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, per PA 1939, Section 9, Act 280. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. In this case, this Administrative Law Judge is unable to find that the department erred in applying DHS policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly placed the claimant on a MA deductible case and his wife and child on an Emergency Services Only (ESO) MA deductible case.

Accordingly, the department's determination is **UPHELD**. SO ORDERED.

/s/

Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 28, 2011

Date Mailed: July 28, 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.

SM/cr

cc:

