

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-75816
Issue No: 2026
Case No: [REDACTED]
Hearing Date: January 23, 2013
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on September 7, 2012. After due notice, a telephone hearing was held on January 23, 2013. Claimant personally appeared and provided testimony.

ISSUES

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

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 department mailed Claimant a Notice of Case Action on August 8, 2012, informing Claimant he had a \$ [REDACTED] MA spend-down based on Claimant's income exceeding the \$ [REDACTED] program limit. (Department Exhibit A, pp 1-2).
2. Claimant's in a fiscal group size of 1.
3. Claimant submitted a hearing request on September 7, 2012, contesting the amount of his spend-down for MA. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An

opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Reference Tables Manual (RFT).

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). Michigan provides MA for eligible clients under two classifications: Group 1 and Group 2 MA. Claimant falls under the AD-CARE group. MCL 400.106; MSA 16.490(16), MCL 400.107; MSA 16.490(17) and 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.

In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protective basic maintenance level. Agency policy sets forth a method for determining the protective basic maintenance level by considering: (1) The protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services, if determining eligibility for clients in adult-care homes. The protected income level is the set amount for non-medical needs such as shelter, food, and incidental expenses. In all other situations, other than those involving long-term care, the appropriate income level must be taken from RFT 240. BEM Item 544 and 42 CFR 435.811-435.814. If the client's income exceeds the protected income level, the excess amount (MA deductible) must be used to pay medical expenses before Group 2 coverage can begin.

An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA coverage. However, an 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 Item 545; 42 CFR 435.831.

Policy requires the Department to count and budget all gross income received that is not specifically excluded or all income that can be reasonably anticipated by the fiscal group. There are three main types of income: countable earned, countable unearned, and excluded. BEM Items 500 and 530.

Department policy states:

**RETIREMENT, SURVIVORS, AND DISABILITY
INSURANCE (RSDI) (AKA SOCIAL SECURITY
BENEFITS)**

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. BEM, Item 500.

In the instant case, the department determined Claimant's net unearned income based upon his receipt of \$ [REDACTED] in gross unearned income in the month of August, 2012. The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income, after being provided with the most beneficial unearned income deduction of \$ [REDACTED] was \$ [REDACTED] in net income. Federal Regulations at 42 CFR 435.831 provide standards for the determination of the Medical Assistance monthly protected income levels. The department, in this case, is in compliance with the Reference Tables Manual, tables, charts and schedules, table 240-1. Table 240-1 indicates that the claimant's monthly protected income level for a person in claimant's fiscal group in claimant's situation for a group of one is \$ [REDACTED] which would have him left with \$ [REDACTED] in monthly excess income (\$ [REDACTED] - \$ [REDACTED]). The department's determination that Claimant had excess income for purposes of Medical Assistance eligibility is correct.

This Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Claimant had excess income for purposes of Medical Assistance benefits necessitating a Medicaid spend-down for the time period in question.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's MA spend-down.

Accordingly, the department's decisions are **UPHELD**.

It is SO ORDERED.

/s/
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 23, 2013

Date Mailed: January 23, 2013

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

2012-75816/VLA

VLA/las

cc:

