

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-43915
Issue No.: 2013
Case No.: [REDACTED]
Hearing Date: May 30, 2012
County: Washtenaw

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 following Claimant's request for a hearing. After due notice, an in-person hearing was held on May 30, 2012, at the Washtenaw County Department of Human Services (DHS) in Ypsilanti, Michigan. Participants on behalf of Claimant included [REDACTED]. (Claimant's son/ Authorized Hearing Representative (AHR)). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker).

ISSUE

Did the Department properly determine Claimant's eligibility for Medical Assistance (MA) or "Medicaid"?

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 is a disabled person.
2. Claimant was actively receiving Medicaid with a patient pay amount.
3. At all relevant times, Claimant receives Retirement, Survivors and Disability Insurance (RSDI), also referred to as social security benefits, in the amount of [REDACTED] per month.

4. Claimant, at all relevant times, also receives a pension in the amount of [REDACTED] in gross income from Ford Motor Company.
5. On October 27, 2011, the Department received notice that Claimant left a nursing home to enter an assisted living facility.
6. The Department was notified that Claimant was participating in the waiver program.
7. On February 22, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) that indicated the following: (1) Claimant would have a deductible in the amount of [REDACTED] from 12/01/2011 through 12/31/2011; (2) Claimant's deductible for 01/01/2012 through 01/31/2012 is [REDACTED] and (3) Claimant's Medicaid coverage was denied effective April 1, 2012 ongoing. The Notice also indicated, "You are not under 21, pregnant, or a caretaker of a minor child in your home. You are not over 65 (aged), blind, or disabled."
8. Claimant requested a hearing on February 27, 2012 to challenge the Department's February 22, 2012 Notice of Case Action that negatively affected his Medicaid case.¹

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the 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.

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

¹ It should be noted that Claimant's request for hearing was originally dismissed by Administrative Law Judge (ALJ) Landis Lain on March 19, 2012 for failure to request a timely hearing within 90 days. However, ALJ Marya A. Nelson-Davis, on April 12, 2012, issued an Order Vacating Order for Dismissal for Lack of Jurisdiction. In her order vacating dismissal, ALJ Nelson-Davis provided a chronological history of Claimant's MA case and indicated that Claimant was entitled to a hearing to protest a negative Medicaid eligibility determination arising out of a November 3, 2011 DHS-1605 which indicated Claimant had a lower deductible than the deductible identified on the Department's DHS-1605 issued February 22, 2012.

program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

The Medicaid Extended-Care category is governed by BEM 164. This is an SSI-related Group 1 MA category. BEM 164. Policy requires the Department consider eligibility under this category only if eligibility does not exist under BEM 154 through 163. BEM 164. The Department must use this category before using a Group 2 category. BEM 164.

This category is available only to L/H² and waiver clients³ who are aged (65 or older), blind or disabled. BEM 164. Gross income cannot exceed [REDACTED]. BEM 164. All eligibility factors in this item must be met in the calendar month being tested. BEM 164.

Here, the Department representative who attended the hearing testified that Claimant was found to be excess income under the “waiver” program. Under BEM 164 indicated above, a person’s gross income cannot exceed [REDACTED]. In the instant matter, Claimant’s AHR did not dispute the Department position during the hearing. Claimant’s AHR did not provide any documentation during the hearing. Specifically, Claimant’s AHR also did not challenge the Department’s position that Claimant was excess income due to his RSDI and pension income based upon BEM 164. Rather, Claimant’s AHR indicated that the instant request for hearing was requested based upon proposed changes to the Medicaid home and community-based services (HCBS) waiver program, which is found in Section 1915(c) of the Social Security Act. According to Claimant’s AHR, the proposed rule change was not adopted by the State of Michigan. Claimant’s AHR did not provide any legal authority nor did he advance any other argument that would circumvent the income requirement set forth by BEM 164.

Accordingly, this Administrative Law Judge finds the Department properly determined Claimant’s Medicaid eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and based upon the material, substantial and competent evidence on the record, finds that the Department did act properly when it determined that Claimant was excess income for purposes of the Medicaid Extended-Care program.

² According to the BPG Glossary, an L/H is defined as, “the Medicaid client who was in the hospital and/or long term care facility (LTC) in an hospital and/or long term care facility (L/H) month.”

³ See BEM 106.

Accordingly, the Department's MA decision is AFFIRMED for the reasons stated above.
IT IS SO ORDERED.

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

Date Signed: 6/6/12

Date Mailed: 6/6/12

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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

CAP/ds

