

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201255062
Issue No: 2026
Case No: [REDACTED]
Hearing Date: August 30, 2012
Macomb #12 County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on August 30, 2012. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly determine Claimant's Medical Assistance (MA) eligibility beginning June 1, 2012?

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 an ongoing recipient of Medical Assistance (MA) benefits under Freedom to Work.
2. On June 8, 2011, Claimant turned 64 years old.
3. On May 1, 2012, the Department re-determined Claimant's Medical Assistance (MA) eligibility. Claimant was sent a Notice of Case Action (DHS-1605) which stated that on June 1, 2012 her Medical Assistance (MA) benefits under Freedom to Work would end and she would be eligible for Medical Assistance (MA) benefits under an [REDACTED] deductible.
4. On May 14, 2012, Claimant submitted a request for hearing.

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 provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

**BEM 174 FREEDOM TO WORK (FTW)
DEPARTMENT POLICY
MA Only**

Do **not** consider Freedom to Work (FTW) eligibility if the month being tested is before January 2004.

This is an SSI-related Group 1 MA category.

Consider client's eligibility for all other MA categories before considering eligibility for Freedom to Work (FTW).

FTW is available to a client with disabilities age 16 through 64 who has earned income.

Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met in the calendar month being tested.

**BEM 166 GROUP 2 AGED, BLIND AND DISABLED
DEPARTMENT POLICY
MA Only**

This is an SSI-related Group 2 MA category.

Consider eligibility under this category only when eligibility does **not** exist under BEM 155 through 164, 170 or 171.

Consider Medicare Savings Program eligibility (BEM 165) in addition to Group 2 MA.

MA is available to a person who is aged (65 or older), blind or disabled. All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to BEM 546 to determine the post-eligibility patient-pay amount.

**FINANCIAL ELIGIBILITY FACTORS
Income Eligibility**

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. Apply the MA policies in BEM 500, 530, 540 (for children) or 541 (for adults), and 544 to determine net income.

If the net income exceeds Group 2 needs, MA eligibility is still possible per BEM 545.

**BEM 545 MA GROUP 2 INCOME ELIGIBILITY
DEPARTMENT POLICY
MA Only**

This item completes the Group 2 MA income eligibility process. Income eligibility exists for the calendar month tested when:

- There is no excess income.
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When **one** of the following equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**:

- Old bills (defined in EXHIBIT IB).
- Personal care services in clients home, (defined in Exhibit II), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).
- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC).

When **one** of the above does **not** equal or exceed the group's excess income for the month tested, income eligibility begins either:

- **The exact day of the month** the allowable expenses **exceed** the excess income.
- **The day after the day of the month** the allowable expenses **equal** the excess income.

In addition to income eligibility, the fiscal group must meet all other financial eligibility factors for the category processed. However, eligibility for MA coverage exists only for qualified fiscal group members. A qualified fiscal group member is an individual who meets all the nonfinancial eligibility factors for the category processed.

RULES FOR MA GROUP 2 INCOME ELIGIBILITY

Use the following rules to determine MA Group 2 income eligibility. The individual must be given the most advantageous use of their old bills (also known as incurred expenses). The individual may request coverage for the current month, up to six future months (see eligibility based on old bills in this item), and for any of the prior three months before the current month.

1. Use the budgeting rules in BEM 530. Determine income eligibility in calendar month order, starting with the oldest calendar month.

2. Use BEM 546 to determine the post-eligibility patient-pay amount (PPA) for each L/H month that a client is Group 2 eligible.
3. Determine Medicare Savings Program eligibility separately for Group 2 clients entitled to Medicare Part A (see BEM 165).
4. Request information about **all** medical expenses incurred during and prior to each month with excess income.
5. Notify the group of the outcome of each determination.

MONTHS WITHOUT EXCESS INCOME

Income eligibility exists for the entire month tested when the group does **not** have excess income.

MONTHS WITH EXCESS INCOME

Income eligibility exists for all or part of the month tested when the **medical group's** (defined in BEM 544, **EXHIBIT I**) allowable medical expenses (BEM 545, EXHIBIT I) equal or exceed the fiscal group's excess income.

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 Bridges 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 each time the group meets its deductible.

Deductible Period

Each calendar month is a separate deductible period.

Starting the First Deductible Period

The first deductible period:

- Cannot be earlier than the processing month for applicants.
- Is the month following the month for which MA coverage is authorized for recipients.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "XHIBIT I) that equal or exceed the deductible amount for the calendar month tested.

The group must report expenses by the last day of the third month following the month in which the group wants MA coverage. BAM 130 explains verification and timeliness standards.

BEM 503 INCOME, UNEARNED DEPARTMENT POLICY All Types of Assistance (TOA)

This item identifies all of the following:

- Unearned income types.
- Definition of each unearned income type.
- Whether an unearned income type is countable or excluded for each type of assistance.

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS) All Types of Assistance

RSDI 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.

Bridges counts the gross benefit amount as unearned income.

In this case Claimant was no longer eligible for benefits under Freedom to Work because she passed the age limit of 64. Claimant raised an issue regarding [REDACTED] that is held out of her RSDI check to pay back an over payment. Bridges Eligibility Manual 503, cited above, shows that the gross amount, including any withholding, is used in the financial eligibility budget.

During this hearing the MA financial eligibility budget was reviewed thoroughly. Claimant's RSDI and earned income were verified. This Administrative Law Judge has double checked the earned income disregard was the protected income limit in RFT 240. The Department has properly determined that Claimant is eligible for Medical Assistance (MA) as an [REDACTED] deductible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly determined Claimant's Medical Assistance (MA) eligibility beginning June 1, 2012.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 14, 2012

Date Mailed: September 14, 2012

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.

GFH/tb

cc:

