

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201263427
Issue No.: 2026, 2017, 3000
Case No.: [REDACTED]
Hearing Date: August 15, 2012
County: Oakland DHS (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, a telephone hearing was held on August 15, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] and testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], [REDACTED], Manager.

ISSUES

The first issue is whether DHS properly determined Claimant's eligibility for Medical Assistance (MA) benefits including eligibility for Medicaid and Medicare Savings Program (MSP).

The second issue is whether DHS owes Claimant a supplement of Food Assistance Program (FAP) benefits.

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 was an ongoing MA benefit recipient.
2. Claimant received \$211.50/month in a retirement benefit.
3. Claimant received \$1084/month in gross Retirement, Survivors, Disability Insurance (RSDI).

4. Claimant is responsible for payment of \$99.90 in a Medicare payment.
5. On 6/1/12, DHS determined that Claimant was eligible for Medicaid subject to a \$767/month deductible effective 7/2012 and not eligible for MSP benefits.
6. On 7/6/12, Claimant requested a hearing to dispute the MA benefit determination and that she is owed a supplement of \$161 in FAP benefits.
7. DHS conceded that Claimant is owed \$161 in FAP benefits.

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). DHS 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).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. It was not disputed that Claimant was a disabled individual. As a disabled person, Claimant may qualify for MA benefits through Aged-Disabled Care (AD-Care) or Group 2 Spend-Down (G2S). AD-Care and G2S are both SSI-related categories. BEM 163 outlines the proper procedures for determining AD-Care eligibility. BEM 166 outlines the proper procedures for determining G2S eligibility.

For both types of MA coverage, generally, DHS is to count the gross RSDI benefit amount as unearned income. BEM 503 at 20. There are exceptions to the general rule but no evidence was presented to justify applying an exception. It was not disputed that Claimant's gross RSDI benefit was \$1084/month. Claimant also had pension income of \$211.50/month. For retirement income (i.e. pensions) DHS is to count the gross benefit as unearned income. Claimant's gross monthly income for purposes of MA benefit eligibility is found to be \$1295.

For purposes of AD-Care eligibility, DHS allows a \$20 income disregard. DHS also gives budget credits for employment income, guardianship/conservator expenses and cost of living adjustments (for January through March only). None of the credits apply to Claimant. Claimant's net income, for purposes of AD-Care eligibility is \$1275.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163. The net income limit for AD-Care for a one person MA group is \$931/month. RFT 242. It is found that DHS properly determined Claimant to be ineligible for AD-Care based on excess income.

Clients with a Medicaid deductible may receive Medicaid 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. BEM 545 at 9. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

Claimant may still receive MA benefits, subject to a monthly deductible through the G2S program. The deductible is calculated by subtracting Claimant's Protected Income Level (PIL) from Claimant's MA net income. The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Claimant's shelter area is \$408. RFT 240 at 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. It was verified that Claimant was responsible for \$100/month in Medicare premiums. Subtracting the \$20 disregard and insurance premium expense from Claimant's income creates a countable income of \$1175. Subtracting the PIL (\$408) from the MA group's net income results in a monthly deductible of \$767, the same as calculated by DHS (see Exhibit 1). It is found that DHS properly determined Claimant's Medicaid benefit eligibility.

It must also be determined whether DHS properly denied MSP eligibility to Claimant. MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, deductibles and coinsurances. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if DHS funding is available.

The type of MSP coverage a client receives depends on the client's income. BEM 165 at 2. Countable income for MSP is calculated according to the SSI-related MA policies in BEM 500 and 530. BEM 165 at 6. DHS is to apply the deductions in BEM 541 (for adults) to countable income to determine net income.

It was not disputed that Claimant received \$1295/month in gross RSDI and pension income. MSP eligibility also allows a \$20 disregard making Claimant's net countable income \$1275/month for purposes of MSP eligibility.

The only other factors within an MSP determination are: earned income (RFT 541 at 3) guardianship or conservator expenses (see *Id.* at 4) and unearned allocation to non-SSI

children (*Id.* at 2). It was not disputed that these factors did not apply to Claimant's MSP eligibility.

Income eligibility for MSP exists when a client's net income is within the limits as found in RFT 242. The net income limit for MSP eligibility is \$1257/month. RFT 242 at 1. The MA group's net income exceeded the net income limits for MSP eligibility. It is found that DHS properly denied MSP eligibility to Claimant.


The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2). In the present case, Claimant partially requested a hearing to dispute prior FAP benefit issuances. During the hearing, the parties testified that they had reached a settlement concerning FAP benefits. Consequently, DHS proposed that Claimant be supplemented for \$161 based on previous FAP benefit under-issuances. Claimant accepted the DHS proposal. As the agreement appears to comply with DHS regulations, the settlement concerning FAP benefits shall be accepted as an appropriate resolution of Claimant's FAP benefit dispute.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's eligibility for Medicaid as Medicaid subject to a \$767/month deductible effective 8/2012. It is also found that DHS properly denied MSP benefits to Claimant effective 8/2012. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact, conclusions of law and by agreement of the parties, finds that DHS improperly failed to issue \$161 in FAP benefits to Claimant. It is ordered that DHS supplement \$161 in FAP benefits to Claimant. The actions taken by DHS are PARTIALLY REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 17, 2012

Date Mailed: August 17, 2012

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

CG/hw

cc:

