

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201328214  
Issue No.: 2026  
Case No.: [REDACTED]  
Hearing Date: May 30, 2013  
County: Oakland DHS (02)

**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 May 30, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly determined Claimant's eligibility for Medical Assistance (MA) benefits as Medicaid subject to a monthly deductible.

**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 was the only member of the MA benefit group.
3. In 12/2012, Claimant received \$1285/month in Retirement, Survivors, Disability Insurance (RSDI) (see Exhibits 2-3)
4. Claimant received weekly gross employment income of: \$88 on 1/9/13, \$96 on 1/16/13 and \$88 on 1/23/13.
5. Claimant paid \$104.90/month for a Medicare premium.

6. Claimant had unspecified child support expenses.
7. On 1/25/13, DHS determined Claimant to be eligible for Medicaid subject to an \$1164 monthly deductible, effective 3/2013.
8. On 2/4/13, Claimant requested a hearing to dispute the MA benefit determination.

### **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).

Claimant requested a hearing to dispute an MA benefit determination. Specifically, Claimant objected to receiving Medicaid subject to a deductible. Claimant testified that he previously received Medicaid with no deductible and was perplexed how DHS could drastically alter his MA benefit eligibility. Though Claimant was understandably perplexed by a drastic reduction in coverage, determining Claimant's proper MA benefit eligibility does not require examining Claimant's past benefit eligibility.

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 (10/2010), p. 2. It was not disputed that Claimant was a disabled and/or an aged individual. As a disabled and/or aged 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. The analysis begins with determining Claimant's income.

DHS presented an SOLQ (Exhibits 2-3), a report generated by a data exchange from the Social Security Administration. The SOLQ verified that Claimant's gross monthly RSDI was \$1285. Claimant testified that he only received \$1073 in RSDI due to a garnishment to pay child support.

For all programs, generally, the gross amount of RSDI is countable income. BEM 503 (11/2012), p. 20. Exception to using gross income include: certain former SSI recipients, Medicare premium refunds, SSA overpayments, mandatory payee fees and retroactive issuances. *Id.* An exception to factoring gross RSDI does not exist for child support payments. Accordingly, DHS properly factored Claimant's gross income in determining MA benefit eligibility.

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 (COLA) (for January through March only). COLA is applicable for a 3/2013 MA benefit budget. Thus, Claimant's RSDI income from 12/2012 is the proper income to factor. Claimant's net unearned income is found to be \$1265.

Claimant also had employment income. DHS determined Claimant's monthly employment income to be \$720. It was not disputed that Claimant had weekly income in 1/2013 averaging \$90.67. DHS had no explanation how Claimant's weekly \$90.67 income turned into \$720 in monthly income. It is found that DHS improperly determined Claimant's employment income.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163 (10/2010), p. 1. The net income limit for AD-Care for a one-person MA group was \$931/month. RFT 242 (4/2012), p. 1. Though Claimant's employment income was improperly calculated, Claimant's RSDI, by itself, gives Claimant excess income for AD-care. Accordingly, it is found that DHS properly determined Claimant to be ineligible for Medicaid through AD-care due to excess income.

Claimant may still receive MA benefits, subject to a monthly deductible through the G2S program. Clients with a 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 (7/2011), p. 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.*

The deductible is calculated by subtracting the Protected Income Level (PIL) from the MA net income. The protected income level (PIL) is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Claimant's shelter area and group size is \$408. RFT 240 (7/2007), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. It was not disputed that Claimant had a monthly \$104.90 obligation for a Medicare premium and that DHS failed to factor the expense. DHS asserted that Claimant failed to report the expense, though DHS conceded that they possessed verification of the expense- on the already obtained SOLQ document. Thus, DHS had notice of the obligation. It is found that DHS erred by not factoring Claimant's Medicare premium expense.

It was found above that DHS improperly calculated Claimant's employment income. Though the error was harmless in determining Claimant's AD-Care eligibility, the error affected the amount of Claimant's deductible. Accordingly, the MA benefit determination had two errors.

It should be noted that DHS alleged that Claimant's MA benefit eligibility ended because Claimant failed to meet his deductible for three consecutive months. The DHS basis for closure is not accepted as valid because of the errors made in determining the amount of Claimant's deductible.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's eligibility for MA benefits as Medicaid subject to an \$1164/month deductible. It is ordered that DHS:

- (1) redetermine Claimant's MA eligibility, effective 3/2013, subject to the findings that DHS had verification of a \$104.90 Medicare premium obligation and that Claimant's employment income should be based on verified gross earnings of \$88 from 1/9/13, \$96 from 1/16/13 and \$88 from 1/23/13; and
- (2) supplement Claimant for any benefits not issued as a result of the improper determination.

The actions taken by DHS are REVERSED.



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

Date Signed: 6/20/2013

Date Mailed: 6/20/2013

**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:

