

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201335769  
Issue No.: 2026  
Case No.: [REDACTED]  
Hearing Date: June 28, 2013  
County: Oakland DHS (04)

**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 June 28, 2013, from Detroit, Michigan. Participants included [REDACTED] as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Specialist.

**ISSUE**

The issue is whether DHS properly determined Claimant's Medical Assistance (MA) benefit eligibility.

**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 has gross Retirement, Survivors, Disability Insurance (RSDI) of \$1619/month.
3. On an unspecified date, DHS determined that Claimant was eligible for Medicaid, subject to an \$1191/month deductible.
4. On 3/8/13, Claimant's AHR requested a hearing to dispute Claimant's AHR eligibility effective 4/2013.

## **CONCLUSIONS OF LAW**

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Prior to a substantive analysis of the hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing. The hearing proceeded with Claimant's guardian/AHR appearing for Claimant and without Claimant. It was not definitively established, but Claimant's AHR's testimony implied that the special request was that he be able to appear on behalf of Claimant; this is how the hearing was conducted. Claimant's AHR made no objections to holding the hearing without Claimant's involvement.

Claimant's AHR requested a hearing to dispute an unstated action associated with particular date. It was only stated that a hearing was request for Claimant. The DHS Hearing Summary suggested that there was an MA benefit termination based on excess assets or a failure to verify assets; unfortunately, this also was not clear. Claimant's AHR testified that he is convinced that Claimant's MA benefits are active and that he only wishes to dispute an MA decision determining Claimant was eligible for Medicaid subject to an \$1191/month deductible.

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.

Claimant's AHR testified that Claimant received \$1515/month in income. DHS budgeted \$1619/month as income for Claimant. Neither Claimant nor DHS verified how the given income amount was justified. It is known that a Medicare premium is often \$104/month. Claimant's AHR testified that Claimant was responsible for a Medicare premium. Based on the presented evidence, it is probable that the \$1515 amount provided by Claimant's AHR reflected the RSDI after a \$104 Medicare premium deduction. Thus, it is found that Claimant's gross RSDI income was \$1619.

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). Claimant's AHR testified that he used to receive guardian received any lately; thus, Claimant probably

does not have guardian expenses. Applying the \$20 disregard results in a total monthly income is found to be \$1599.

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 \$958/month. RFT 242 (4/2013), p. 1. As Claimant's group's net income exceeded the AD-Care income limit, it is found that DHS properly determined Claimant to be ineligible for AD-Care based on 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. Claimant's AHR alleged that Claimant was responsible for a Medicare premium of \$104/month; DHS did not dispute the testimony. Based on Claimant's circumstances, the AHR's testimony was credible. Subtracting the PIL and \$20 disregard from the group's income results in a monthly deductible of \$1191, the same amount calculated by DHS. It appears that DHS failed to account for the Medicare premium which would decrease the deductible to \$1087. Thus, it is found that DHS failed to correctly determine 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. It is ordered that DHS:

- (1) redetermine Claimant's MA benefit eligibility, effective 4/2013, subject to the finding that Claimant is responsible for a Medicare premium expense; and
- (2) initiate supplement of MA benefits, if any, improperly not issued.

The actions taken by DHS are REVERSED.



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

Date Signed: 7/5/2013

Date Mailed: 7/5/2013

**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 affect the substantial rights of the claimant,
  - 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:

