IN THE MATTER OF:

	Reg. No.:	201343331
	Issue No.:	2026
	Case No.:	██████
	Hearing Date:	July 16, 2013
	County:	Macomb 12

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 July 16, 2013, from Lansing, Michigan. Participants on behalf of Claimant included ████████ and ████████. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES), ████ ████.

ISSUE

Did the Department properly impose a deductible on the Claimant's MA case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December 1, 2012, the Claimant's husband began receiving RSDI income in the monthly amount of ████.

2. On April 1, 2013, the Department determined that the Claimant was not eligible to receive full MA benefits because of excess income and was given a deductible in the amount of $██████.

3. On March 22, 2013, the Department sent the Claimant notice that she would be eligible to receive MA benefits with a deductible of $█████ per month.

4. On April 26, 2013, the Claimant filed a request for a hearing to protest the amount of her MA deductible.

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 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).

Once the Claimant's husband's SSI benefits were cancelled, the Claimant was no longer eligible to receive Medical Assistance on a SSI category because Bridges Eligibility Manual (BEM) 150 (2013) p. 1, specifically requires that to be automatically eligible for MA, the Claimants must be an SSI recipient. The Claimants now receive RSDI instead of SSI. Per BEM 105 (2010) p. 1, Michigan provides MA to eligible Claimants under two general classifications: group 1 and group 2 MA. Claimants qualified under the group 2 MA classification which consists of clients whose eligibility results from the state designating certain types of individuals as medically needy. Per BEM 545 (2011), in order to qualify for group 2 MA, a medically needy client must have income as equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the basic maintenance level by considering:

1. Protected income level.
2. The amount deferred to dependent.
3. Health insurance premiums
4. Remedial services if determining the eligibility for claimant s in Adult Care Homes.

If the Claimants income exceeds the protect income level, the excess income must be used to pay medical expenses before group 2 MA coverage can begin. The policy requires the Department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM 500, p. 1.

In the instant case, the Department calculated the Claimant's income based upon her husband's receipt of RSDI income in the amount of $█████ per month beginning December 1, 2012. After giving the Claimant the appropriate unearned income general exclusion of $█████ the Claimant was left with net earned income of $█████ The Claimant did provide the department with a Part B premium deduction of $██ resulting in countable income of $█████ This Administrative Law Judge has

reviewed the record and the exhibits and finds that the Claimant's fiscal group's net income after being provided the most beneficial unearned income deductions was $█████ in countable unearned net monthly income. Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The Department is in compliance with RFT 240, which indicates that the Claimant's monthly protected income level for the Claimant's fiscal group of two persons is $█████ $█████ per month in net income minus the total needs of $█████ in protected income level equals $█████ in excess income. The Department's determination that claimant has excess income/deductible in the amount of $1011.00, for purposes of MA eligibility is therefore correct and found to be in accordance with departmental policy.

When a Claimant has a deductible, there is a process which allows the Claimant to be eligible for group 2 MA if sufficient allowable medical expenses are incurred. Meeting the deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. The group must report expenses on the last day of the third month following the month it wants MA coverage for. BEM, 545, p. 1, 9.

While the Administrative Law Judge certainly understands the Claimant's allegation that the deductible is too expensive and unfair because of his other expenses, the Administrative Law Judge has no equity powers. Therefore, this Administrative Law Judge finds the Department has established by the necessary competent, material and substantial evidence on the record that it acted in compliance with departmental policy when it determined that the Claimant had a MA in the amount of $█████

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did act properly when determining the Claimant's MA deductible.

Accordingly, the Department's ☐ AMP ☐ FIP ☐ FAP ☒ MA ☐ SDA ☐ CDC decision is ☒ **AFFIRMED** ☐ REVERSED.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/23/13

Date Mailed: 7/23/13

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

SEH/tb

cc: