

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201337504
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: August 7, 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 August 7, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES) [REDACTED].

ISSUE

Did the Department properly determine that the Claimant had excess income to be eligible for full Medical Assistance (MA) benefits and impose a deductible on her MA?

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 March 19, 2013, the Claimant applied for MA.
2. On March 20, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that she had excess income for MA and therefore had a deductible of \$ [REDACTED].
3. On March 29, 2013, the Claimant filed a request for a hearing to protest 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).

Per BEM 105 (2010) p. 1, Michigan provides MA to eligible Claimants under two general classifications: group 1 and group 2 MA. Claimant 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 Claimant's 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 receipt of [REDACTED] income in the amount of \$ [REDACTED] per month. After giving claimant the appropriate unearned income general exclusion of \$ [REDACTED] the Claimant was left with net earned income of \$ [REDACTED]. Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The Department credibly testified that the Claimant was afforded a protected income level of \$ [REDACTED]. 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 one person is \$ [REDACTED]. \$ [REDACTED] per month in net income minus the total needs of \$ [REDACTED] in protected income level equals \$ [REDACTED] in excess income. The Department's determination that claimant has excess income/deductible in the amount of \$ [REDACTED] 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, 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's MA case was subject a deductible in the amount of \$ [REDACTED]

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 closing the SSI-MA case and imposing a deductible on the Claimant's MA benefits. did not act properly when.

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: 8/8/13

Date Mailed: 8/8/13

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:

