

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201315157
Issue No.: 2026, 2017
Case No.: [REDACTED]
Hearing Date: January 24, 2013
County: Washtenaw DHS (20)

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, an in-person hearing was held on January 24, 2013 from Ypsilanti, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

During the hearing, Claimant requested an adjournment. Claimant stated that he expected to be represented by one of two persons and that he was uncomfortable in proceeding without representation. Claimant's motion was denied due to several factors including: a prior adjournment already been given to Claimant, no notice of appearance from either of Claimant's representatives and that Claimant's lack of representation did not impact Claimant's ability to present his case. It should be noted that Claimant's hearing ended approximately one hour after the scheduled hearing time and neither of Claimant's representatives appeared.

ISSUES

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

The second issue is whether DHS properly failed to evaluate Claimant for Medicare Savings Program (MSP).

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 Medicaid recipient.
2. In 12/2012, Claimant was eligible for \$953.90 in gross monthly Retirement, Survivors, Disability Insurance (RSDI).
3. Claimant's RSDI was reduced by \$99.90 for a Medicare Part B premium.
4. On 11/15/12, DHS determined that Claimant was eligible for Medicaid subject to a \$426/month deductible beginning 11/2012.
5. On 11/15/12, DHS also determined Claimant's Food Assistance Program (FAP) eligibility stemming from an application dated 10/22/12.
6. DHS failed to make any MSP determination concerning Claimant.
7. On 11/26/12, Claimant requested a hearing to dispute the MA and FAP benefit determination.
8. Claimant testified that he did not wish to dispute the FAP 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).

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 and/or an aged 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, DHS is to count the gross RSDI benefit amount as unearned income. BEM 503 at 20. It was not disputed that Claimant's gross RSDI benefit was \$953.90/month.

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 deductions apply to Claimant. Claimant's net income, for purposes of AD-Care eligibility is \$933.90.

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. As Claimant's net income exceeds 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 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.*

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 at 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. It was not disputed that Claimant paid \$99.90 of his RSDI toward a Part B Medicare premium. Subtracting the PIL, \$20 disregard and Medicare premium from the group's income results in a monthly deductible of \$426, the same amount as calculated by DHS. It is found that DHS properly determined Claimant's MA benefit eligibility.

As noted above, Claimant is responsible for payment of a Medicare premium. DHS offers a program within MA benefits to pay monthly Medicare Part B premiums; the program is called the Medicare Savings Program (MSP). DHS is to do Medicare Savings Programs determinations for Group 2 MA clients if they are entitled to Medicare Part A; Claimant is believed to be such a client.

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.

DHS failed to explain why Claimant was not entitled to MSP coverage. There is no evidence that DHS considered MSP coverage for Claimant. It is found that DHS erred by failing to determine Claimant's eligibility for MSP.

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 MA benefits as Medicaid subject to a \$426/month deductible effective 12/2012. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to determine Claimant eligibility for MSP. It is ordered that DHS initiate:

- (1) processing of Claimant's MSP eligibility effective 12/2012; and
- (2) supplementing of MSP benefits, if any, not previously issued in error.

The actions taken by DHS are PARTIALLY REVERSED.



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

Date Signed: January 31, 2013

Date Mailed: January 31, 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,

201262858/CG

- 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:

