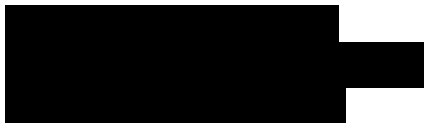


**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201328878
Issue No.: 2026, 3000
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Macomb 20

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on March 13, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services determine the proper Medical Assistance (MA) coverage for Claimant on February 8, 2013?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Medical Assistance (MA) benefits.
- (2) On November 28, 2012, Claimant became eligible for Retirement, Survivors, and Disability Insurance (RSDI) benefits. Claimant was to begin receiving regular monthly payments in January 2013.
- (3) On February 8, 2013, the Department updated Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) financial eligibility budgets to include her RSDI benefits. Claimant was sent a Notice of Case Action (DHS-1605) which stated her Medical Assistance (MA) was to be a deductible of \$ [REDACTED] and her Food Assistance Program (FAP) would be \$ [REDACTED] per month. The Department determined Claimant's Medical Assistance (MA) eligibility as being Group 2 SSI-Related.

- (4) On February 11, 2013, Claimant submitted a request for hearing about her change in Medical Assistance (MA). Claimant did not request a hearing about her Food Assistance Program (FAP) benefits. That portion of this hearing is dismissed.

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). 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).

During this hearing Claimant's unearned income was verified as \$ [REDACTED] gross RSDI and \$ [REDACTED] of child support. The November 28, 2012 Social Security Administration notice of eligibility and payment letter to Claimant states that \$ [REDACTED] will be withheld from each of Claimant's monthly RSDI payments to apply to her child support and/or alimony obligation. During this hearing Claimant testified that the SSA withholding is for child support.

In accordance with Department of Human Services Bridges Eligibility Manual (BEM) 500 Income Overview (2012) page 3, and BEM 503 Income, Unearned (2012) page 21, the gross amount of Claimant's RSDI was used in her Medical Assistance (MA) financial eligibility budget.

Department of Human Services Bridges Eligibility Manual (BEM) 541 MA Income Deductions - SSI-Related Adults (2012) states:

DEPARTMENT POLICY

MA Only

This item applies to SSI-related MA for adults. Adult means a person who is married or age 18 or over. Apply the deductions in the order listed to countable income as determined by using BEM 500 and 530.

COURT ORDERED CHILD SUPPORT

Deduct court-ordered child support paid by an initial person's spouse to a child who does not live with the fiscal group. The amount deducted is: the amount specified in the court order or the actual amount if less than the court order or the actual amount if more than the court order and the amount includes arrearages. Arrears must be paid on behalf of a dependent child to allow the deduction.

Regarding the term "initial Person's spouse" Department policy, including the Glossary, was reviewed back to 2003. This phrase has been in PEM/BEM 541 since 2003 but no definition of the term was found. In the absence of a definition, analysis of the plain language of the policy was done within the context of an eligibility determination. That analysis includes the possibility that Claimant is the "spouse" of an "initial person" (Claimant's ex-spouse) and is paying court-ordered child support to their child who does not live with Claimant. Under that application of BEM 541 to the facts in this case, the Department did not apply the required deduction to Claimant's countable income before running her Group 2 SSI-Related Medical Assistance (MA) financial eligibility budget.

The Group 2 SSI-Related Medical Assistance (MA) financial eligibility budget submitted by the Department shows Claimant's unearned incomes as \$1,229 which is the sum of her gross RSDI \$ [REDACTED] (which includes child support arrearage payments withheld) plus the \$ [REDACTED] she **receives** as payment on a [REDACTED] arrearage payable to her. BEM 503 dictates that the child support arrearage payment being withheld from her RSDI payment must be included in her gross RSDI for calculation of her countable income. However, BEM 541 dictates that the child support withheld from her RSDI must then be subtracted from her countable income as a [REDACTED] deduction to arrive at her unearned income used in the Group 2 SSI-Related Medical Assistance (MA) financial eligibility budget.

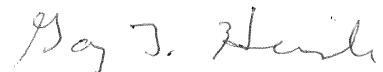
The Department cannot be upheld because they have not shown that Claimant is not allowed the BEM 541 deduction for [REDACTED]. For that reason, it cannot be determined that the Department's February 8, 2013 eligibility determination of Claimant's Medical Assistance (MA) is correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services has not shown that their February 8, 2013 Medical Assistance (MA) eligibility determination for Claimant is correct.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that the Department re-determine Claimant's Medical Assistance (MA) eligibility back to February 1, 2013 in accordance with policy.



Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 3/25/13

Date Mailed: 3/26/13

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

GFH/tb

cc:

