

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

**IN THE MATTER OF:**

[REDACTED]

New Reg. No.: 2013-31157  
Old Reg. No.: 2012-17981  
Issue No.: 2006  
Case No.: [REDACTED]  
Hearing Date: March 7 and 29, 2012  
County DHS: Macomb (12)

**SUPERVISING ADMINISTRATIVE LAW JUDGE:** Kathleen H. Svoboda

**DECISION AND ORDER OF RECONSIDERATION**

This matter is before the undersigned Supervising Administrative Law Judge pursuant to a timely Request for Rehearing/Reconsideration of the Hearing Decision generated on March 30, 2012 by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on March 7, 2012 and continued on March 29, 2012.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs at issue, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was generated on April 3, 2013.

**ISSUE**

Did the Administrative Law Judge (ALJ) err in reversing the Department's denial of Claimant's October 25, 2010 application for Medical Assistance-Ad Care (MA) benefits and State Disability Assistance (SDA) benefits due to failure to pursue Social Security benefits?

### **FINDINGS OF FACT**

Upon a review of the entire hearing record, including the recorded testimony and evidence admitted, in addition to a review of the applicable law and policy governing the issues in this matter, this Administrative Law Manager makes the following findings of fact:

1. On October 25, 2010, Claimant submitted an assistance application (DHS-1171) seeking MA and retroactive MA back to July 2010.
2. On June 7, 2011, the Department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that her application for MA and retroactive MA had been denied due to her failure to pursue Social Security disability benefits.
3. On October 3, 2011, Claimant withdrew her hearing request challenging the Department's June 7, 2011 denial of Claimant's October 25, 2010 application.
4. On October 5, 2011, Claimant submitted an assistance application (DHS-1171) seeking MA-Ad Care and SDA benefits.
5. On October 26, 2011, the Department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that her application for MA-Ad Care and SDA benefits had been denied because her group's countable income exceeded the limit of the MA-Ad Care and SDA programs.
6. On November 7, 2011, Claimant submitted a hearing request, protesting the Department's October 26, 2011 denial of her October 5, 2011 application for MA-Ad Care and SDA benefits.

### **CONCLUSIONS OF LAW**

The MA program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The department determines a client's eligibility for MA benefits based on, among other things, the client's income. BEM 400. Income eligibility for the MA Ad-Care program may be found in RFT 242. BEM 165, p 6. Effective April 1, 2011, the net income limit for a group size of two is \$ [REDACTED]

The State Disability Assistance (SDA) program was established by 2004 PA 344 and is a financial assistance program for individuals who are not eligible for the Family Independence Program (FIP) and are either disabled or the caretaker of a disabled

person. The Department administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180.

An SDA eligibility determination group (EDG) consists of either a single adult or adult and spouses living together. BEM 214. The department's philosophy is that spouses are responsible for each other and that needy spouses living together are expected to share income, assets, and expenses. BEM 214. A certified group (CG) includes only the eligible members of the SDA EDG – and the members of the CG are determined based on information reported by the individual and entered into the department's computer system, known as Bridges. BEM 214).

For SDA purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. BEM 500. Unearned income means all income that is not earned, including but not limited to funds received from Child Development and Care (CDC), Medicaid (MA), Retirement, Survivors, and Disability Insurance (RSDI), Supplemental Security Income (SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

Effective for applications filed on or after October 1, 2011, the SDA monthly payment standard for an individual is \$200.00 and for an individual and a spouse is \$315.00. RFT 210.

In this case, in the Findings of Fact portion of the Hearing Decision, the Administrative Law Judge found as follows:

1. Claimant applied for MA benefits.
2. Claimant was required to submit requested verification by May 5, 2011.
3. On June 7, 2011, the Department denied Claimant's application and sent notice of same.
4. On November 7, 2011, Claimant filed a hearing request, protesting the denial.

And, in the Conclusions of Law portion of the Hearing Decision, the Administrative Law Judge determined as follows, in relevant part:

[A]fter a thorough review of the record, the Department states that the reason for denying the Claimant's October 25, 2010, MA application was that the Claimant had not pursued Social Security benefits. The duty to pursue benefits is spelled out in BEM 270:

MA Only – Refusal to pursue a potential benefit results in person ineligibility. BEM 270, p. 1.

In the instant case, there was no evidence that the Claimant refused to pursue SSA/SSI benefits and Department policy does not designate a time line for compliance. This Administrative Law Judge finds that the Department should have gone forward with presentation of Claimant's medical records to the Medical Review Team (MRT).

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly denied Claimant's application.

However, having reviewed the case file, exhibits and testimony in this matter, including the hearing recordings for the March 7, 2012 hearing that the Administrative Law Judge subsequently continued on March 29, 2012, it is clear that the Administrative Law Judge grossly exceeded his jurisdictional authority in allowing the hearing, requested by Claimant on November 7, 2011 following the Department's October 26, 2011 denial of Claimant's October 5, 2011 application for MA Ad-Care and SDA benefits for excess income, to instead proceed as an adjudication of the Department's June 7, 2011 denial of Claimant's October 25, 2010 MA application – where Claimant's November 7, 2011 hearing request did not even challenge the June 7, 2011 negative action and where, significantly, Claimant *withdrew* her prior hearing request challenging the June 7, 2011 negative action. The ALJ further compounded this error by ordering the Department to re-register and process Claimant's October 25, 2010 MA application without even addressing the crux of Claimant's instant hearing request.

Accordingly, it is found that the Administrative Law Judge lacked jurisdictional authority to adjudicate and reverse the Department's June 7, 2011 denial of Claimant's October 25, 2010 application for MA benefits. It is further found that, given that there was no dispute by the parties regarding Claimant's household income exceeding the MA Ad-Care net income limit for a group size of two (\$ [REDACTED] and the SDA monthly payment standard for an individual and a spouse (\$ [REDACTED] the Department's October 26, 2011 denial of Claimant's October 5, 2011 application for MA Ad-Care and SDA benefits due to excess assets was proper and in accordance with Department policy.

### **DECISION AND ORDER**

The Administrative Law Manager, based on the above findings of fact and conclusions of law, decides that the Administrative Law Judge lacked jurisdictional authority to adjudicate and reverse the Department's June 7, 2011 denial of Claimant's October 25, 2010 application for MA benefits. The Administrative Law Manager further decides that the Department's October 26, 2011 denial of Claimant's October 5, 2011 application for MA Ad-Care and SDA benefits due to excess assets was proper and in accordance with Department policy.

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Accordingly, it is ordered that the decision of the Administrative Law Judge generated at the conclusion of the hearing conducted on March 7, 2012 and March 29, 2012 and mailed on March 30, 2012 is VACATED and the Department's October 26, 2011 denial of Claimant's October 5, 2011 application for MA Ad-Care and SDA benefits due to excess assets is **UPHELD**.



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**Kathleen H. Svoboda**  
Supervising Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 3, 2014

Date Mailed: April 3, 2014

**NOTICE:** The law provides that within 30 days of receipt of this decision, the claimant may appeal this decision to the circuit court for the county in which he/she lives.

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