

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201343532
Issue No.: 2026, 2017
Case No.: [REDACTED]
Hearing Date: June 26, 2013
County: Wayne DHS (17)

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, a telephone hearing was held on June 26, 2013, from Detroit, Michigan. Participants included the above named-Claimant. [REDACTED] appeared as a translator for Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Specialist.

ISSUES

The first issue is whether DHS properly determined Claimant's Medicare Savings Program (MSP) eligibility.

The second issue is whether DHS properly determined Claimant's Medical Assistance (MA) benefit eligibility.

FINDINGS OF FACT

1. Claimant was an ongoing Medicaid recipient.
2. Claimant was the only member of an MA benefit group.
3. Claimant had monthly income of \$1027 from Retirement, Survivors, Disability Insurance (RSDI).
4. On 3/8/13, DHS determined that Claimant was eligible for Medicaid subject to a \$527/month deductible, beginning 4/2013.
5. On 4/19/13, Claimant requested a hearing to dispute the MA 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). The Medicare Savings Program is part of the MA program.

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.

Claimant requested a hearing, in part, to dispute a failure by DHS to approve SLMB benefits from 1/2013. DHS conceded that Claimant was entitled to SLMB from 1/2013. DHS presented testimony that SLMB was approved for Claimant from 1/2013. Though DHS might have corrected the lack of SLMB, the correction was not verified.

When an administrative decision requires a case action different from the one originally proposed, a DHS-1843, Administrative Hearing Order Certification, is sent with the D&O. BAM 600 (2/2013), p. 33. DHS is to complete the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. *Id.* Because the correction of SLMB eligibility was not verified prior to the conclusion of the administrative hearing, it is deemed most appropriate to assume that DHS has not approved the SLMB and that DHS verify the approval via the DHS-1843.

Claimant also requested a hearing to dispute his MA benefit eligibility. It was not disputed that DHS determined Claimant to be eligible for Medicaid subject to a \$527 monthly deductible.

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 (10/2010), p. 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 (11/2012), p. 20. It was not disputed that Claimant's received \$1027/month from RSDI.

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 (COLA) (for January through March only). Applying a \$20 disregard results in a countable net income of \$1007 for purposes of AD-Care eligibility.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163 (10/2010), p. 1. The net income limit for AD-Care for a one-person MA group was \$958/month. RFT 242 (4/2013), p. 1. As Claimant's group's net income exceeded 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 (7/2011), p. 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 \$375. RFT 240 (7/2007), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. DHS factored that Claimant pays a \$104.90 insurance premium, presumably a Medicare premium. It was determined above that Claimant is eligible for an MA benefit program which pays the Medicare premium. For purposes of this decision, it will be found that DHS properly credited Claimant for payment of the Medicare expense. Subtracting the PIL, Medicare premium expense and \$20 disregard from the group's income results in a monthly deductible of \$527, the same amount calculated by DHS.

DECISION AND ORDER

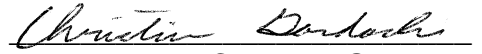
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's eligibility for MA benefits as Medicaid subject to a \$527/month deductible, effective 4/2013. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to verify SLMB eligibility for Claimant, effective 1/2013. It is ordered that DHS:

- (1) process SLMB for Claimant, effective 1/2013, if not already approved; and

(2) mail Claimant notice of the approval.

The actions taken by DHS are PARTIALLY REVERSED.


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

Date Signed: 7/15/2013

Date Mailed: 7/15/2013

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,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - 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:

