

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53844
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Oakland DHS (03)

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 August 15, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED] Manager.

ISSUE

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

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 MA benefit recipient.
2. Claimant was a married individual living with her spouse.
3. Claimant's spouse received \$ [REDACTED] in gross Retirement, Survivors, Disability Insurance (RSDI) and paid a \$ [REDACTED] month Medicare Part B premium.
4. Claimant received \$ [REDACTED]/month in RSDI.
5. On 5/28/13, DHS determined that Claimant was eligible for Medicaid, effective 7/2013, subject to an \$ [REDACTED]/month deductible.
6. On 6/21/13, 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).

Claimant requested a hearing to dispute an MA benefit determination. It was not disputed that DHS determined that Claimant was eligible for Medicaid subject to a deductible.

Clients may qualify under more than one MA category. BEM 105 (10/2010), p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility or the least amount of excess income. *Id.*

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.*

Claimant testified that she received RSDI benefits as a retired individual. Claimant also testified that she was 62 years old. The evidence tended to establish that Claimant was neither aged nor disabled. DHS considered Claimant to be a disabled individual. For purposes of this decision, it will be assumed that DHS properly found Claimant to be a disabled individual despite evidence indicating otherwise.

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.

It was not disputed that Claimant's gross monthly RSDI was \$ [REDACTED] and that her spouse's gross monthly RSDI was \$ [REDACTED]. For purposes of AD-Care eligibility, DHS allows a \$ [REDACTED] 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 the \$ [REDACTED] disregard to the \$ [REDACTED] combined income results in a countable income of \$ [REDACTED].

Income eligibility for AD-Care exists when countable 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 two-person MA group is \$1293/month. RFT 242 (4/2013), p. 1. As Claimant's

group's countable 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 \$ [REDACTED] RFT 240 (7/2007), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. It was not disputed that Claimant's spouse paid \$ [REDACTED] for a Medicare premium. Subtracting the PIL, Medicare premium expense and \$ [REDACTED] disregard from the group's income results in a monthly deductible of \$ [REDACTED]. DHS calculated a deductible of \$ [REDACTED]. A budget was not presented but DHS conceded that the \$ [REDACTED]/month difference was the result of a failure to credit Claimant's spouse's Medicare premium. The DHS testimony was credible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's eligibility for MA benefits. It is ordered that DHS:

- (1) redetermine Claimant's MA eligibility, effective 7/2013, subject to the finding that DHS is to factor Claimant's spouse's \$ [REDACTED] month Medicare premium expense; and
- (2) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.



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

Date Signed: August 26, 2013

Date Mailed: August 26, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request
If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CG/las

cc:

