

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

IN THE MATTER OF:

██████████
████████████████████
██

Reg. No.: 2013-64162
Issue No.: 2001
Case No.: ██████████
Hearing Date: January 27, 2014
County: Macomb (50-36)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 27, 2014, from Sterling Heights, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Whether the Department properly determined Claimant's eligibility for Limited Coverage QMB (SLM) monthly benefit?

FINDINGS OF FACT

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

1. On July 15, 2013, the Department determined Claimant was not eligible for cost share programs.
2. On August 14, 2013, Claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

In the instant case, Claimant requested a hearing to dispute the Department's determination that she had excess income for MA cost share programs. Claimant did not dispute she receives \$1,613 in RSDI income. Claimant acknowledged her child receives RSDI as well and, according to the Department records, had been receiving \$807 for the month of June 2013, but it appears to have dropped to \$230.67 as of July 2013. The Department determined Claimant had \$1,468 net income after deductions to consider. This budget as presented indicated the income limit for the program in question was \$1,293.

At hearing, Claimant pointed out that the Department was utilizing the income limits for a fiscal group of 1 and not a fiscal group of 2. Claimant also questioned the allocation of her income to her non-SSI-related child. The Department testified the fiscal group was correct and Claimant, for MA purposes, would be considered a fiscal group of 1 and not 2.

According to RFT 242, p. 1 (April 2013), the income limit for AD-CARE and full coverage QMB income limit for a fiscal group of one is \$958. The income limit for Limited Coverage QMB (SLM) for a fiscal group of one is \$1,149. The income limit for ALMB for a fiscal group of one is \$1,293.

According to BEM 211, pp. 6-7 (July 2013), for purposes of SSI-Related Adult, the fiscal and asset group is made up of the adult and his/her spouse.

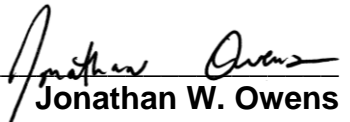
According to BEM 541, p. 2 (July 2013), the Department is to calculate the allocation for each non-SSI-related child separately. The Department is to utilize both the earned and unearned income when making this determination. After adding these totals together, the Department must determine if the total exceeds \$311. If the amount is less than \$311, the Department is to subtract the total (unearned and earned) from \$311. If the total exceeds \$311 the Department is to allocate \$0.

After reviewing the policy and testimony, this Administrative Law Judge finds the Department correctly determined that Claimant, for purposes of the SSI-related MA, to be a fiscal group of 1. This Administrative Law Judge, however, finds the unearned allocation to a non-SSI-related child assessed by the Department to be incorrect. As indicated by the above policy in July 2013, Claimant's child received \$230.67 in RSDI income beginning the month of July 2013. The policy would have required this amount be subtracted from \$311 which would have yielded an \$80.33 allocation to non-SSI-related child, not the \$125.33 in the budget provided. However, this Administrative Law Judge finds this to be harmless error as whether the amount is \$80.33 or \$125.33,

Claimant's income still exceeds the income thresholds for all Medicare cost savings programs.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 18, 2014

Date Mailed: February 18, 2014

NOTICE OF APPEAL: 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.

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).

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

2013-64162/JWO

JWO/pf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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