

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-8976
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 15, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] [REDACTED] Specialist.

ISSUE

The issue is whether DHS properly included Claimant's spouse in determining Claimant's Medical Assistance (MA) eligibility.

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 receiving Medicaid.
2. Claimant lived with his spouse.
3. On 10/ [REDACTED] /13, DHS determined Claimant's MA eligibility, effective 11/2013, in part, by factoring an MA benefit group which included Claimant's spouse, resulting in a determination of Medicaid subject to a \$1266/month deductible.
4. The DHS determination also terminated Claimant's Medical Savings Program (MSP) eligibility.

5. On 10/13, Claimant requested a hearing to dispute the termination of Medicaid.

CONCLUSIONS OF LAW

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

Claimant requested a hearing to dispute a determination by DHS that Claimant was eligible for Medicaid subject to a \$1266/month deductible. DHS explained that the determination was made after it was learned that Claimant was a married individual living with his wife. It was not disputed that Claimant received Medicaid through an SSI-related MA category.

DHS is to determine the fiscal and asset groups separately for each person requesting MA BEM 211 (7/2013), p. 2. When referring to the group listings, only persons living with one another can be in the same group. *Id.* Living with others means sharing a home where family members usually sleep, except for temporary absences. *Id.*, p. 3. For SSI-related MA, the adult's fiscal and asset group includes the adult and spouse. *Id.*, p. 7.

Claimant contended that DHS should not have factored his wife in the MA benefit determination. Claimant conceded that he lived in the same house with his wife. Claimant contended that he was functionally separated because he lived downstairs and his wife lives upstairs. Claimant conceded that he was not legally separated. Claimant conceded that he did not charge rent to his wife. Claimant presented no evidence to verify his unusual living arrangement. Based on the presented evidence, DHS properly included Claimant's wife in the MA benefit determination.

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.

DHS presented testimony that Claimant had gross monthly income of \$954 in Retirement, Survivors, Disability Insurance (RSDI) and that Claimant's spouse received \$846/month in RSDI. Claimant did not dispute either RSDI amount. The combined benefit group income was \$1786.

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 the \$20 disregard to the income results in a countable income of \$1766.

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 \$500. RFT 240 (7/2007), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. Claimant did not allege to have any such eligible expenses at the time of the determination. Subtracting the PIL and \$20 disregard from the group's income results in a monthly deductible of \$1266, the same determination made 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 to be eligible for Medicaid subject to a \$1266/month deductible beginning 11/2013. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 2-7-2014

Date Mailed: 2-7-2014

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

CG/hw

cc:

