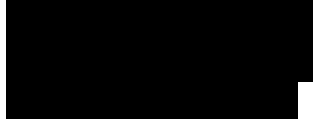


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-012570
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: September 16, 2015
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly include both the Claimant and his wife in the same fiscal group for determining Medical Assistance (MA)?

Does the Claimant's income exceed the QMB income limit?

Did the Department properly calculate the Claimant's fiscal group's MA spend down?

FINDINGS OF FACT

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

1. The Claimant receives RSDI income in the amount of \$806.
2. The Claimant lives with his spouse who began receiving RSDI in April 2015. The Claimant's wife receives a pension of \$684.35 and RSDI in the amount of \$985.90. The Claimant's wife's total income is \$1,670.

3. In June 2015, the Department placed Claimant on an MA spenddown due to the group income of the Claimant and his wife. This change was due to an increase in group income due to Claimant's wife receiving RSDI. Exhibit 1 and Exhibit 3
4. The Claimant has one dependent child. The Claimant's spouse is not the child's daughter.
5. The Department closed the Claimant's QMB which pays for Medicare Part B premium due to excess group income. Exhibit 3
6. The Claimant requested a hearing on [REDACTED] protesting the closure of his QMB and his MA deductible. Exhibit 3

CONCLUSIONS OF LAW

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

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department denied the Claimant's QMB coverage for his MA fiscal group after the Claimant's spouse began receiving RSDI. The Department issued a Health Care Coverage Determination Notice on [REDACTED] advising the Claimant that he was no longer eligible for the Medicare Savings Program due to excess income. Likewise, the Department also determined that his spouse was also not eligible for the Medicare Savings Program.

MA Fiscal Group Composition

Based upon Department policy, clearly the Claimant and his wife are in the same MA fiscal group and both their incomes must be used to determine their eligibility for various MA programs. Likewise, both their medical expenses must be used to determine if the group's deductible (spend down) is met. Once the deductible is met and the group no longer has excess income, both group members are eligible. BEM 545 provides:

Income eligibility exists for the entire month tested when the group does **not** have excess income. BEM 545 p. 3.

BEM 545 requires that only persons living with one another can be in the same group and the only income that may be considered is the person's own income and the following persons who live with the individual, which includes the individual's spouse. BEM 211(January 1, 2015) p.2, 3 and 5.

QMB Eligibility Determination

BEM 165 (October 10, 2015) p. 7 provides financial eligibility factors for (QMB).

To Determine QMB eligibility BEM 165 requires the Department use the fiscal and asset group policies for SSI-related groups in BEM 211 and BEM 400. BEM 165 provides:

Income Eligibility

Income eligibility exists when net income is within the limits in RFT 242 or 247. Income eligibility **cannot** be established with a patient-pay amount or by meeting a deductible.

Determine countable income according to the SSI-related MA policies in BEM 500 and 530, **except** as explained in COUNTABLE RSDI in this item. Apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income.

Based upon the above policy, QMB is determined based upon fiscal Group income based upon a two person group (the Claimant and his spouse). The QMB eligibility income limit is \$1347.50 (RFT 242, (May 1, 2015) p. 1). The Department correctly determined that the Claimant's MA fiscal groups' unearned income was \$2476, based upon Claimant receiving RSDI of \$806, Claimant's spouse receiving RSDI of \$985.90 and a pension of \$684.34. These incomes total \$2476. The Department correctly credited the Claimant for \$257 for his dependent child and a general \$20 exclusion (both of which were deducted for the MA group income) which left countable income of \$2199, which exceeds the QMB income limit for a group of two persons which is \$1347.50. Thus the Department correctly determined the Claimant and spouse were not eligible for QMB. Exhibits 3 and 4

Determination of Fiscal Group Deductible

The Claimant also requested a hearing regarding how his deductible spend down was determined. In order to determine deductible both the Claimant and his spouse's income must be considered. The latest budget for July 2015 presented at the hearing was reviewed, as it was the most current, and differed from June as both Part B premiums were not included. Exhibit 5 p. 15. BEM 536 (January 1, 2014) . A review of the Claimant's (adult) budget was reviewed by the undersigned after the hearing, as there are numerous steps to be applied which cannot reasonably be explained during the

hearing due to their complexity. However, this Decision contains an analysis of the steps required to explain the calculations necessary to determine the deductible. The steps are all contained in Department policy found in BEM 536 (January 1, 2014).

The first determination which must be made is to determine Claimant's adult's share of the adult's income, and secondly the adults prorated income. In this case, the adult refers to Claimant. Policy found in BEM 536 sets forth a formula for determining the spend down amount. Starting with the Claimant's total countable unearned income, which is the net income amount which must be determined, which is \$806 received as RSDI. Policy then directs that the number of Claimant's dependent's, which in this case are 2 dependents (spouse and child), are added to 2.9 to get the prorate divisor, which is 4.9. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536 (1/1/14) p. 1

The adult's share of the adult's income (Claimant) is determined first. The Claimant's net income (\$806) is divided by 4.9 resulting in \$164, which is Claimant's prorated income. This is how the adult's prorated income is determined, and is correct as presented in the budget.

The next step requires that if an adult has a dependent child, as is the case in Claimant's facts, the adults prorated income (\$164) is then multiplied by 2.9 ($\$164 \times 2.9 = \475). This calculation results in the final amount of Total Net Income for the Claimant, which is \$475. The Total Net Income for the Claimant is part of the income which is used to determine the deductible. See Budget Exhibit 5.

The next step is to determine the Claimant's spouse prorated income, which also goes into determining Claimant's deductible. As the Claimant's spouse is a non-parent to Claimant's child, the Claimant's spouse is a Non-Parent Caretaker Relative. A non-parent caretaker relative is defined as :

This person is a core relative who is acting as parent for one or more dependent children in the home who are **not** the person's own children. Example: Person is acting as parent for a grandchild or a stepchild who is a dependent child. BEM 536, p.5.

The next step is to determine the Non-Parent Caretaker Relative's prorate divisor which in this case is (1) for the Claimant, who is considered as his spouse's dependent, plus (1) for the dependent child plus 2.9 which equals 4.9. The Claimant's spouse's total income of \$1670 is divided by 4.9 and equals \$340, which is the spouse's prorated income.

The final calculation to determine total net income takes the Claimant's prorated income of \$164 times 2.9, which equals \$475, plus the spouse's prorated income (\$340 times 3.9) which equals \$1326, plus one prorated share of Claimant's prorated income (\$164),

which equals total net income for Claimant's fiscal group (husband and wife) of \$1965 (\$475 + \$1326 + \$164 = \$1965). See BEM 536 pp.6 and 7, Adult's Fiscal Group's Net Income. See also Exhibit 5 p. 15 (spend down budget).

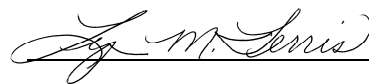
Deducted from the group's net income amount are the two Medicare Part B premiums paid by Claimant and his spouse, which total \$209.80, leaving total net income of \$1775.20 (\$1965 - \$209.80 = \$1775.20). The last step requires that the Protected Income Level be deducted from the fiscal group's net income. The Protected Income Level for an MA fiscal group of 2 members living in Wayne County is \$500. See RFT 240 (December 1, 2013) p. 1 for Protected Income Level. The resulting deductible is \$1255 (\$1775.20 - \$500 = \$1255). Both the Claimant and his spouse have the same deductible. See BEM 536, pp. 6-7. Based upon this review, it is determined that the Department correctly determined the Claimant's spend down.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department correctly determined that the Claimant and spouse are not eligible for QMB. The Department correctly determined that Claimant and his spouse are required to be in the same MA fiscal group in accordance with Department policy. In addition, the Department correctly determined that the Claimant and his spouse have a deductible (spend down) of \$1255 in accordance with Department policy. Therefore, it is determined that the Department acted in accordance with Department policy on all issues requested by the Claimant to be reviewed as part of his hearing request.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/29/2015**

Date Mailed: **9/29/2015**

LMF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

