



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: March 1, 2019  
MAHS Docket No.: 18-013793  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**HEARING DECISION**

Following Petitioner'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; 42 CFR 438.400 to 438.424; 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 February 14, 2019, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist's Nicole Perkins and Lisa Matlock. Ms. Perkins and Ms. Matlock testified on behalf of the department. The department submitted 43 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

**ISSUE**

Did the Department properly determine that Petitioner was eligible for a Medicaid spenddown?

**FINDINGS OF FACT**

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

1. In [REDACTED] 2018, the department processed Petitioner's redetermination for Medicaid. [Dept. Exh. 6-13]
2. On October 1, 2018, the Department mailed Petitioner a Health Care Coverage Determination Notice, informing Petitioner she was eligible for full coverage under the Medicare Savings Program with a \$675.00 spenddown for the Medicaid program beginning October 1, 2018 ongoing. [Dept. Exh. 17-21].

3. Petitioner did not contest the amount of Retirement, Survivors, Dependent Income (RSDI) used by the Department in calculating Petitioner's Medicaid spenddown.
4. On December 26, 2018, Petitioner submitted a hearing request contesting the Medicaid spenddown. [Dept. Exh. 3-4].

### **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.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). Michigan provides MA for eligible clients under two classifications: Group 1 and Group 2 MA. Claimant falls under the Group 1 SSI-related MA classification, which consists of clients whose eligibility results due to being aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. MCL 400.106; MSA 16.490(16), MCL 400.107; MSA 16.490(17) and BEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, or
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines).  
BEM 545, p 1 (4/1/2018).

In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protective basic maintenance level. Agency policy sets forth a method for determining the protective basic maintenance level by considering: (1) The protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services, if determining eligibility for clients in adult-care homes. BEM 544, pp 2-3 (7/1/2016). The protected income level is the set amount for non-medical needs such as shelter, food, and incidental expenses. *Id.* at 1. In all other situations, other than those involving long-term care, the appropriate income level must be taken from RFT 240. BEM 544 and 42 CFR 435.811-435.814. If the client's income

exceeds the protected income level, the excess amount (MA deductible) must be used to pay medical expenses before Group 2 coverage can begin.

An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA coverage. However, an MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for MA, 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. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545, p 10 (4/1/2018); 42 CFR 435.831.

Policy requires the Department to count and budget all gross income received that is not specifically excluded or all income that can be reasonably anticipated by the fiscal group. There are three main types of income: countable earned, countable unearned, and excluded. BEM Items 500 and 530.

Department policy states:

**RETIREMENT, SURVIVORS, AND DISABILITY  
INSURANCE (RSDI) (AKA SOCIAL SECURITY  
BENEFITS)**

**All Programs**

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. BEM, Item 500.

In the instant case, the Department determined Petitioner's net unearned income based upon her receipt of \$ [REDACTED] in gross unearned income in the month of November 2018. This Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income, after being provided with the most beneficial unearned income deduction of \$20.00, was \$ [REDACTED] in net income.

Federal Regulations at 42 CFR 435.831 provide standards for the determination of the Medical Assistance monthly protected income levels. The Department, in this case, is in compliance with the Bridges Reference Manual, tables, charts and schedules, table 240. RFT 240 (12/1/2013).

Table 240 indicates that the Petitioner's monthly protected income level for a person in Petitioner's fiscal group in Petitioner's situation for a group of 1 person is \$408.00 which

would have left her with \$ [REDACTED] in monthly excess income (\$ [REDACTED] – \$ [REDACTED] – \$ [REDACTED]). The Department's determination that Petitioner had excess income for purposes of Medical Assistance eligibility is correct.


This Administrative Law Judge finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Petitioner had excess income for purposes of Medical Assistance benefits and when it determined that Petitioner had a Medicaid spenddown for the time period in question.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it determined Petitioner had a Medicaid spenddown.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

VLA/nr

  
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Vicki L. Armstrong  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; 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

**DHHS**

Montrece White  
27690 Van Dyke  
Warren, MI  
48093

Macomb 20 County DHHS- via electronic  
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI  
[REDACTED]