

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2008-21253
Issue No: 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 1, 2009
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on April 1, 2009.

ISSUE

Was the claimant's Medicaid budget computed correctly?

FINDINGS OF FACT

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

- (1) Claimant was receiving Group 1 Medicaid with no deductible.
- (2) Claimant had a yearly Medicaid re-determination in May 2008.
- (3) Claimant's RSDI increased \$20 from \$872 to \$892, a 2.3% increase.
- (4) The income threshold for Group 1 Medicaid only increased by 1.8% in 2008.

(5) As a result, claimant was \$5 over the Group 1 threshold for Medicaid.

(6) Claimant was subsequently disqualified for Group 1 Medicaid, and was transferred into the Group 2 program.

(7) Claimant was allowed \$350 of protected income, in accordance with his shelter area.

(8) Claimant's deductible was calculated at \$522.

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). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM) and Reference Tables (RFT).

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Claimant was originally eligible for Group 1 Medicaid. However, net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. PEM 105. For a household size of 1, this limit is \$867. RFT 242. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. PEM 105.

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). PEM 545.

Income eligibility exists when net income does **not** exceed the Group 2 needs in PEM 544. PEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in RFT 240. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, a 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. PEM 545; 42 CFR 435.831.

In the original budget, claimant was found eligible for Group 1 MA by virtue of an unearned income of \$872, with \$20 dollars disregarded, for a net income of \$852, which was apparently enough to maintain Group 1 eligibility.

The re-determined budget, which was run on 6-1-08, included claimant’s \$20 RSDI cost-of-living increase. This increased his income to \$892, with \$20 disregarded, for a net income of \$872. Unfortunately, the income threshold for Group 1 Medicaid was only raised to \$867, which was not as much as the RSDI cost-of-living increase. Claimant therefore found himself \$5 over the income threshold. The Administrative Law Judge has reviewed this corrected budget and found no errors. Claimant himself was unable to point out specifically what parts of the budget

he felt were in error. A corrected unearned income total of \$892, modified to \$872 once all disregards are taken into account, is \$5 more than the \$867 threshold. Therefore, claimant is no longer eligible for Group 1 MA, and under the regulations discussed above, only eligible for Group 2 MA when the excess income, budgeted here to be \$522, is spent.

While it may seem incredible that a mandatory increase in income of \$20 can result in \$522 of expenses, and that the reason for these expenses is that the cost-of-living threshold increase on Group 1 Medicaid did not keep pace with the RSDI cost of living increase, the law is what the law is. This Administrative Law Judge has no authority to ignore the limits set by law, even though all sides in this case have agreed that the outcome will most likely result in extreme hardship for the claimant, given his medical expenses and limited income. The Department is similarly bound by its own policies, and was therefore correct in its determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to impose an MA-P deductible of \$522 was correct.

Accordingly, the Department's decision is AFFIRMED.

/s/

Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 10, 2009

Date Mailed: April 13, 2009

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

RJC/cv

cc:

