

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Claimant

By: [REDACTED], Conservator

Reg. No: 2008-27788

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 11, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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, an in-person hearing was held on March 11, 2009 in Flint. Claimant did not appear.

Claimant was represented by his Conservator, [REDACTED].

The department was represented by Matthew Zofchak (ES).

ISSUES

(1) Did the department give claimant's Conservator the opportunity to provide information requested in the October 3, 2008 memo from the [REDACTED] to the DHS caseworker?

(2) On June 20, 2009, did the department correctly deny claimant's request to have the bill from [REDACTED] counted as a spend-down expense?

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 is an MA-P recipient with a spend-down.
- (2) On June 3, 2008, the claimant was approved for MA-P.
- (3) On June 3, 2008, the caseworker established a spend-down of [REDACTED]. The MA-P effective date was June 20, 2008.
- (4) On June 3, 2008, claimant's Conservator submitted bills from [REDACTED] [REDACTED], showing June 2008 expenses of [REDACTED]. (Exhibit A1, page 48).
- (5) On June 20, 2008, the caseworker declined to use the expenses incurred by [REDACTED] to offset claimant's spend-down for June 2008. (Exhibit A1, page 44.)
- (7) The caseworker provided the following explanation for the denial of claimant's request to use the [REDACTED] expenses to meet his June spend-down:

The provider services must be approved through our DHS program. We could not include the expenses from [REDACTED] [REDACTED] because they do not have an open case with our Adult Services.
- (8) On October 1, 2008, the caseworker submitted a question to Central Office to obtain a policy clarification about the deductibility of the [REDACTED] bill.

Her memo states as follows:

We currently have a client who receives RSDI and is in a spend-down status. The customer has 'targeted case management' and is requesting that this service be used to meet the spend-down each month. The attorney, [REDACTED], faxed to DHS a copy of Medicaid Provider Manual for targeted case management. I have researched the policy in PEM 545 and cannot find that this is an allowable expense for home health service to meet the spend-

down each month. Can you help me out on this one? Does this expense for a Target Case manager count as a home health expense for MA?

\* \* \*

(9) Central Office provided the following answer:

I talked with my manager and I talked with our policy analyst that handles Traumatic Brain Injury policy and a good number of services that Medicaid pays for that are not medical services.

There is nothing on the bill that would indicate that the services were provided by a medical professional listed in PEM 545, i.e., [REDACTED], Nurse, Occupational Therapist, Psychiatrist, Psychologist, etc., and there is no indication that any medical service was provided.

The itemized bill makes indication that services such as bank deposits or assistance with [REDACTED] to prevent a shutoff, do not appear to be medical in nature.

Nothing in PEM 545 states that if it is covered by Medicaid, it is an allowable expense for meeting the deductible of an individual. From what I can see of this client's eligibility, they were not approved for a deductible until [REDACTED], so the expense submitted by [REDACTED], could at best, be considered as 'old bills' and verification must be obtained regarding the outstanding balance of the services provided, as the statement is dated [REDACTED], and payment from another party could have been made in that period of time.

Without knowing the professional status of the person who actually provided the service, or a further explanation that bank deposits are somehow medical, or who received transportation, service from a doctor, or agent or provider to bank, etc. would need to be clarified.

The justification that the other counties allow it or that it is a Medicaid service does not automatically make it a medical services as outlined in PEM 545 that can be used to meet the deductible of the client.

Because his deductible is [REDACTED] he would need to have substantially more expenses than this to meet a deductible for one month and because he has Medicare, his inpatient copay is within a few dollars of being the same as his deductible, so it would be of

little value during a month of an inpatient admission and a lot of unpaid Medicare copays for outpatient services to ever meet its deductible. He does not qualify for any Medicare Savings Program, so what do they believe he will really receive from his MA deductible case?

Bottom line, if they want to provide more detailed information on what medical professional actually provided the service and explanation of how the service is 'medical' then we would not be able to use the expense to meet the client's deductible. As for additional information, if you get something, we can revisit, otherwise, the expense does not meet the conditions in PEM 545 to be considered a medical expense.

\* \* \*

(10) The caseworker did not relay the information provided by the [REDACTED]

Consultant to claimant's Conservator so that she could clarify the items raised in the Memo.

(11) On July 29, 2008, claimant requested a hearing.

(12) Claimant's attorney thinks that the [REDACTED] bill is a legitimate medical expense under PEM 545, pages 1 through 28.

#### 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).

The department's policy manual provides that claimants must be provided a clear explanation of the reasons for a denial of benefits. See PEM 260.

The preponderance of the evidence on the record establishes that the caseworker requested a "second opinion" before denying claimant's request to use the [REDACTED]

██████████ bill as a deduction for his spend-down. The caseworker consulted a Central Office representative to determine if there was any basis, in DHS policy, which would allow the expenses claimed by claimant's Conservator to be used as a spend-down deduction.

The response that the caseworker received from ██████████ Consultant suggested that the services provided by ██████████ do not appear to be "medical services." However, the representative also suggested that the caseworker should permit claimant's Conservator to clarify the nature of the expenses claimed as medical expenses and the qualifications of the providers.

For some unknown reason, the caseworker did not notify claimant's Conservator, prior to the filing of the hearing request, that additional information about the type of services provided and the professional qualifications of the persons providing them, would be helpful to a resolution of this dispute.

Since the caseworker did not give the Conservator the benefit of the additional information supplied by the ██████████ representative, and offer the Conservator a reasonable period to provide the information requested by ██████████ consultant, the Administrative Law Judge concludes that claimant was denied his due process right to a clear and concise explanation of the reasons for the department's negative action.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department denied claimant's Conservator the opportunity to provide additional information to clarify whether or not the ██████████ customized ██████████ did qualify as medical services spend-down deduction for June 2008.

Accordingly, the department's actions are, hereby, REVERSED. The department shall provide claimant's Conservator with a copy of the memo received from [REDACTED] and give the Conservator 30 days from the mailing date below to provide additional evidence in support of Conservator's position.

SO ORDERED.

/s/ \_\_\_\_\_  
Jay W. Sexton  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: March 20, 2009

Date Mailed: March 23, 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 receipt 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.

JWS/tg

cc:

[REDACTED]