

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: 2009-10315
Issue No: 2019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 19, 2009
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 telephone hearing was held on Tuesday, May 19, 2009. The claimant was present, but was represented by his son, [REDACTED], the claimant's guardian and conservator.

ISSUE

Did the department properly determine the claimant's Patient Pay Amount (PPA)?

FINDINGS OF FACT

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

- (1) The claimant is a long-term care recipient under the Medical Assistance (MA) program.
- (2) The claimant has a guardian/conservator.

(3) The claimant has no community spouse and no children under the age of 18.

(4) The claimant does not receive any earned income on a monthly basis.

(5) The claimant has unearned income from a pension in the amount of [REDACTED] from the [REDACTED]. (Department Exhibit C)

(6) The claimant has health insurance premiums of [REDACTED].

(7) On November 14, 2008, the department caseworker calculated a new budget for the claimant based on his pension, gross amount of [REDACTED], with a \$50 patient deduction, [REDACTED] health insurance premium, and guardian/conservator fee of \$60, resulting in a Patient Pay Amount of [REDACTED]. (Department Exhibit 1-4)

(8) On November 14, 2008, the department caseworker sent the claimant a written notice that his monthly PPA would be [REDACTED] effective October 1, 2008. (Department Exhibit A and B)

(9) On December 4, 2008, the department received a hearing request from the claimant's son who is his guardian/conservator, contesting the department's negative action.

(10) During the hearing, the department caseworker stated that the department had committed an administrative error where in the past in determining the Patient Pay Amount the worker had allowed the court-ordered alimony payment. (Department Exhibit A5-13 and B2-4)

(11) During the hearing, the claimant's son who is his guardian/conservator argued that the claimant does not get the money that was court ordered to be paid to his ex-wife. Therefore, that income should not be counted against the claimant from his Patient Pay Amount.

(12) Alimony payments are not allowed in policy to offset Patient Pay Amounts even if they are court mandated per PEM 546 and PEM 500, Page 2.

(13) After the hearing, the department caseworker sent this Administrative Law Judge the [REDACTED] notice that the claimant was receiving a gross [REDACTED] benefit of [REDACTED] which included the [REDACTED] deducted for the claimant's court-ordered alimony payment for his ex-wife of [REDACTED] (Department Exhibit C, D, and E)

(14) In addition, this Administrative Law Judge notes that the claimant's ex-wife is also getting a gross [REDACTED] benefit of [REDACTED] that is a Tier 1 benefit, but that amount should not be counted because it is not a part of the claimant's award letter. (Department Exhibit E)

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 is required to determine a client's post-eligibility PPA. A post-eligibility PPA is a long-term care client's share of his/her cost of long-term care of nursing care. The PPA is the total income minus the total need. Total income is the claimant's countable unearned income. The total need is the sum of the patient allowance, health insurance premiums, and guardian/conservator expenses. PEM, Item 546.

In this case, the department properly calculated the claimant's gross [REDACTED] benefit amount of [REDACTED] for a gross unearned monthly income of [REDACTED]. PEM, Item 500. Effective November 1999, the department must give claimants no more than a \$60 patient

allowance. The claimant is allowed no more than \$60 for guardianship/conservator expenses. In addition, the claimant does have a monthly health insurance premium of [REDACTED]. PEM, Item 546.

The department determined that the claimant's total need amount would be [REDACTED]. The claimant's total need amount of [REDACTED] was subtracted from the claimant's total countable income of [REDACTED], which resulted in the claimant having a PPA of [REDACTED]. PEM, Item 546. Therefore, the department's determination of the claimant's monthly PPA of [REDACTED] must be upheld. Court-ordered alimony payments are not an allowable or excludable deduction per PEM 500 and must be included in determining MA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined the claimant's monthly PPA of [REDACTED]

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

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 22, 2009

Date Mailed: July 22, 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.

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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.

CGF/vmc

cc:

