

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: 2009-18566
Issue No: 2019
Case No. [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 15, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 June 15, 2009. Claimant is incapacitated and lives in a nursing facility. Claimant's daughter, appeared but did not testify. The daughter is the trustee of a trust account for Claimant's wife. Claimant's attorney, [REDACTED], appeared. An eligibility specialist and a family independence manager represented the Department.

ISSUE

Did the Department properly determine Claimant's patient pay amount when determining Claimant's Medical Assistance (MA) budget?

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 applied for MA on October 3, 2008. The application was processed on February 9, 2009, effective October 1, 2008.
- (2) Claimant requested the hearing on the grounds that the patient pay amount, \$1,755, is more than the Claimant's total monthly income.
- (3) The Department determined that Claimant's co-pay effective, February 1, 2009 is \$1,755.
- (4) Claimant's total monthly income is \$1843 from SSI and pension income.
- (5) The parties did not dispute that Claimant's monthly personal expenses are \$60 and his health care premium is \$96.40.
- (6) The Department received Claimant's hearing request on February 25, 2009.

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DEPARTMENT POLICY

All Programs

This item discusses income for:

- Family Independence Program (FIP).
- State Disability Assistance (SDA).
- Refugee Assistance Program (RAP) which if policy differs is divided into:
 - Refugee Assistance Program Cash (RAPC).
 - Refugee Assistance Program Medical (RAPM).
- Child Development and Care (CDC).

Note: Applies to all CDC Income Eligible groups.

- Medicaid (MA) which, if policy differs, is divided into:
 - FIP-related MA.
 - SSI-related MA.
 - Specific MA categories.
- Adult Medical Program (AMP).
- TMA-Plus (TMAP).
- Food Assistance Program (FAP).

The phrase “All Programs” in this item means all the programs listed above.

The group composition and program budgeting items specify whose income to count. The program budgeting items also contain program specific income deductions and disregards.

Income means benefits or payments received by an individual which is measured in money. It includes money an individual owns even if NOT paid directly such as income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount.

Exception: The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions. Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. (PEM 500 p. 1-2)

GARNISHMENT OR OTHER WITHHOLDING

All Programs

Income includes amounts withheld from income which are:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments. (PEM 500 p. 2)

The evidence offered at this hearing established that Claimant's monthly income is \$1843. Under PEM 500, his Medicare premium is \$96.40 monthly can be withheld. In this case, it is found that his personal needs expenses of \$60 can be withheld. Therefore, the Department properly calculated his patient pay as of December 9, 2008 when the Department determined his patient pay to be \$1,686 rather than \$1,755.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department finding that Claimant's patient pay amount \$1,755 is incorrect and, hereby, REVERSED. The Department is ORDERED to recalculate Claimant's patient pay amount based on this monthly income.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/24/09

Date Mailed: 06/29/09

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.

TW/dj

cc:

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