

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: 2009-22066
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 2009
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's timely request for a hearing. After due notice, an in-person evidentiary hearing was held on July 23, 2009.

ISSUE

Did the Department of Human Services (DHS) properly calculate claimant's and claimant's daughter's deductible?

FINDINGS OF FACT

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

(1) At all relevant times prior to the negative action herein, claimant and her daughter were recipients of the Medicaid program administered by the Michigan DHS. Both claimant and claimant's daughter receive RSDI income.

(2) In January, 2009, annual increases were reported to the department regarding changes in RSDI income. The department recalculated eligibility for claimant and her dependent.

Claimant's daughter is on a FIP-related MA-Q budget; claimant on an MA-P budget. These are the best possible budget arrangements for both individuals.

(3) Claimant did not dispute the income, deductions, or budgets used in the calculation of the deductible.

(4) The department issued proper deductible notices on 3/30/09 with an effective date of 5/1/09.

(5) On 3/30/09, claimant filed a hearing request. The action took place.

(6) Claimant understands that her daughter may be eligible for Healthy Kids and has an application pending, not at issue herein.

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).

Deductible/spend-down policy and procedure states in part:

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**

- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets its deductible.

Deductible Period

Each calendar month is a separate spend-down period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. PAM 130 explains verification and timeliness standards. PEM, Item 545. p. 9.

Redetermination

You must redetermine eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. PEM, Item 545, p. 9.

COUNTABLE INCOME

For all persons in this item, determine countable income as follows:

- . RSDI, Railroad Retirement and U.S. Civil Service and Federal Employee Retirement System

Use the countable amount per PEM 500 and 530. Deduct Medicare premiums actually withheld by:

- .. including the L/H patient's premium along with other health insurance premiums, and
- .. subtracting the premium for others (example, the community spouse) from their unearned income.

Exception: Do **not** use the following special exclusion policies regarding RSDI. These policies only apply to eligibility, **not** post-eligibility patient-pay amounts.

- .. PEM 155, “**503 COUNTABLE RSDI**”
- .. PEM 156, “**COUNTABLE RSDI**”
- .. PEM 157, “**COUNTABLE RSDI**”
- .. PEM 158, “**COUNTABLE RSDI**”

Note: The checks of clients on Buy-In increase about 3 months after Buy-In is initiated. Re-compute the PPA when the client’s check actually changes. PAM 810 has information about Buy-In. PEM, Item 546, pp. 1-2.

Regarding the protected income level, policy states:

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. PEM 105. 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. PRT 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 the policy contained in the Program Reference Table (PRT). 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.

General income policy and procedure is found in PEM Item 500.

In this case, there is no relative dispute as to the facts--claimant did not dispute the income or the deductions used on the budgets. In claimant's case, a small increase in income resulted in a larger deductible for the Medicaid eligibility for claimant and her daughter. A review of the budgets, income, and deductions indicates that the department correctly calculated the eligibility in this case. As such, this Administrative Law Judge must uphold the department's determination. Administrative Law Judges have no jurisdiction to make exceptions based upon individual circumstances or to do what is commonly called "equity."

For these reasons, and for the reasons stated above, the department's calculation of the deductible must be upheld.

As noted in the Findings of Fact, claimant understands that her daughter may be eligible for Healthy Kids and evidently has an application currently pending. This application and/or the eligibility for this program is not at issue or reviewed herein.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's calculation of claimant and claimant's daughter's deductible was correct and is hereby UPHELD.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 10, 2009

Date Mailed: August 11, 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 mailing date of the rehearing decision.

JS/cv

cc:

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