

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: 2009-25562

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 request for a hearing. After due notice, an in-person evidentiary hearing was held on July 23, 2009. Claimant was represented at the administrative hearing by [REDACTED]

ISSUE

Did claimant's representative [hereinafter claimant] and the department come to an agreed upon settlement at the evidentiary hearing?

FINDINGS OF FACT

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

- (1) On 4/15/09, claimant provided proof of change of income.

(2) The DHS recalculated eligibility for Medicaid and determined that claimant had a deductible case.

(3) At the evidentiary hearing, the department and claimant came to an agreed upon settlement regarding the calculation and new calculations. The terms of the agreement are set forth below.

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).

Applicable 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 it 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.

At the evidentiary hearing held on July 23, 2009, claimant and the department came to an agreed upon settlement. MCL 24.278(2) allows for disposition to be made of a contested case hearing by stipulation or agreed upon settlement. The terms are as follows:

Claimant had full MA coverage for January and April. The department agreed to recalculate February and March. Claimant may need to deliver verification(s) for March prior to the recalculation. If so, the department shall issue any requests on a Verification Checklist and claimant shall deliver the same in compliance with the due dates on the checklist. The department recalculated eligibility for May, 2009 and determined that the correct spend-down was \$98; for June, 2009 \$86. The department shall issue new notice to claimant informing him of the outcome of the new calculation. Claimant shall retain a right to a hearing for 90 days from the date of the new notice should claimant dispute the outcome of the recalculation and/or the calculation itself.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department shall initiate carrying out the actions as specified in the agreement as laid out herein.

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

Date Signed: July 28, 2009

Date Mailed: July 29, 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:

