

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2009-25869
Issue No: 2026
Case No: [REDACTED]
Hearing Date:
August 5, 2009
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris on behalf of Jana Bachman

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 August 5, 2009 by Administrative Law Judge Jana Bachman, who has since left her employment with Michigan Administrative Hearing System. This decision was issued after reviewing the written and spoken record.

ISSUES

1. Did the department properly determine the claimant was excess income for full MA coverage and place the claimant on a deductible case in August and September, 2008?
2. Did the department properly determine the claimant was not eligible to participate in a Medicare Savings Program (MSP)?

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 was admitted into a Long Term Care (LTC) facility on February 8, 2009. (Department Exhibit A, page 11)
2. When the admitting facility completed the Facility Admission Notice (MSA-2565-C), the LTC private per diem rate was listed as \$ [REDACTED] (Department Exhibit A, page 11)

3. The department found the claimant to have a deductible of \$ [REDACTED] and found the claimant to be excess income to participate in the Medicare Savings Program. (Department Exhibit A)

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

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. BEM 545, pp. 8-9.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in “ **EXHIBIT I**”) that equal or exceed the deductible amount for the calendar month tested. BEM, Item 545, p. 9.

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

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). BEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 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. BEM 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. BEM 545; 42 CFR 435.831.

The claimant's attorney disputes the department's determination that the claimant was placed on a deductible case and also the determination that the claimant was excess income to participate in the Medicare Savings Program. The claimant's attorney indicates that the department erred in using the OTC private per diem rate of \$ [REDACTED]. The claimant's attorney presented documentation to show that the department was advised that the LTC private per diem rate was \$ [REDACTED] in July through September, 2008 and \$ [REDACTED] effective November 1, 2008.

The department did have conflicting information regarding the private per diem rate of the LTC facility. In this case, the department should have verified the correct information as there was a discrepancy. Therefore, the department shall obtain proper verification of the private LTC per diem rate from the LTC facility and budget/rebudget the claimant's MA case for August and September, 2008, accordingly.

Department policy indicates that an individual must be financially eligible to participate in Medicare Savings Program (MSP). PEM 165. Income eligibility exists when net income is within the limits in RFT 242 or 249. Income eligibility cannot be established with a patient-pay amount or by meeting a deductible. PEM 165. RFT 242 indicates that the income limits for the MSP in effect at the time of this action were \$ [REDACTED] (QMB); \$ [REDACTED] (SLMB); and \$ [REDACTED] (ALMB). The claimant's net income was in excess of these amounts, so the department properly determined the claimant excess income to participate in MSP.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department is UPHELD, in part and REVERSED, in part. It is found:

1. The department properly determined the claimant was excess income to participate in MSP. The department's determination is UPHELD.

