

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: 2009-30081
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 29, 2009
Manistee 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, a telephone hearing was held on September 29, 2009.

ISSUE

Did the Department of Human Services (DHS) properly change claimant's active MA case to a 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 was an active MA recipient with the Michigan DHS.
- (2) Claimant had a mid-certification review in March, 2009. At that time, verification indicated that claimant began to receive \$417 in Social Security benefits having turned 62 and drawing on her spouse's. Exhibits 2 and 3.

(3) Claimant's MA category is MA-P.

(4) The department recalculated claimant's eligibility with the new income added to the budget. The new budget shows claimant has excess income of \$1,082 per month. Exhibit 4.

(5) On 4/28/09, the department issued notice that claimant's active MA would change to a deductible status, effective May 12, 2009, with a deductible of \$1,082 per month.

(6) Claimant's expenses exceed her income.

(7) On 6/1/09, claimant filed a hearing request.

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).

Income policy and procedure is found primarily in PEM Item 500.

Applicable policy 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 deductible 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.

HEALTH INSURANCE PREMIUMS

Include as a need item the cost of any health insurance (see PRG) premiums (including vision and dental insurance) the L/H patient pays, regardless of who the coverage is for. This includes Medicare premium that a customer pays.

Do not include premiums paid by someone other than the L/H patient as a need item.

Convert the cost of all premiums to a monthly amount for budgeting purposes. PEM, Item 546, p. 6.

In this case, there is no dispute that claimant's expenses exceed her income. However, all individuals similarly situated must show eligibility under the federal and state budgetary guidelines in order to have an active MA case. Excess income situations where there is eligibility otherwise result in a deductible.

In this case, claimant having turned 62 and beginning to receive income from Social security on the basis of her spouse's Social Security created a situation where there was greater household income. As such, the department was required to recalculate eligibility by incorporating into the budget the new household income. A review of that budget indicates that the counting of this income resulted in an excess income budget showing \$1,082 per month. This is claimant's deductible amount. As such, a review of the record indicates that the department correctly calculated eligibility. Federal law requires the state agency to administer the Medicaid program(s) to ensure the guidelines reflect eligibility for the individuals receiving those benefits and that they are applied equally across the board.

In this case, credible and substantial evidence on the record indicates that claimant's eligibility changed to a deductible. That deductible is \$1,082 per month. As the department correctly calculated this eligibility, the department's action must be upheld.

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 and notice to claimant that her active MA changed to a deductible case, effective May 12, 2009, was correct and must be UPHELD.

/s/

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

Date Signed: October 5, 2009

Date Mailed: October 6, 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:

