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: 2009-30118
Issue No: 2018
Case No: [redacted]
Load No:
Hearing Date:
September 21, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on September 22, 2009. The Claimant appeared and testified along with [redacted], Claimant's daughter, [redacted], Claimant's son and [redacted], Claimant's current home health care worker. Charlotte Metcalf, FIM and Bernice Mark, ES worker appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's MA waiver case for failure to turn in verifications?

Whether the Department properly calculated Claimant's MA deductible case effective 3/1/09?

FINDINGS OF FACT

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

1. The Claimant originally had a MA Waiver case after she was referred through the [redacted].

2. Claimant moved to Texas to live with her daughter in September of 2008. Claimant testified that she reported her new address to the [redacted]. Claimant did not report a change of address to the Department.

3. On 12/1/08, the Department sent Claimant a verification checklist requesting proof of income and assets for purposes of re-determination with a due date of 12/17/09. (Exhibit 1).

4. Claimant did not respond. As a result, the Department contacted the [redacted] which indicated that they were "unable to contact [client], out of area – address unknown." (Exhibit 2).

5. On 1/08/09, the Department issued a negative action for failure to return verifications. Claimant's MA case closed on 1/18/09. (Exhibit 3).

6. Claimant testified that she called the Department on 1/23/09 to discuss her case closure and sent in the verifications.

7. Claimant reapplied for MA benefits in March of 2009.

8. The Department testified that Claimant did not turn in verifications until the time of the new application.

9. On 5/15/09 the Department prepared a budget calculation resulting in the award of an MA deductible case with a monthly spend-down of $1,840.00. (Exhibit 3).

10. Claimant testified that the hearing amounts utilized by the Department were correct.

11. On 2/8/09 the Department received the Claimant's hearing request protesting the termination of the MA waiver benefits.

12. On 6/26/09 the Department received the Claimant's hearing request protesting the amount of the deductible amount from the 5/15/09 budget.

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 are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

A. Termination of MA Waiver Benefits

A DHS 1046 Semi Annual Report is required at the semi annual review when clients have income to report. PAM 200. Adequate notice must be given for all changes reported on the DHS-1046. Id. at 3. Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.

Clients are required to report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days after the client is aware of them. These include but are not limited to, changes in"

- Persons in the home
- Marital Status
- Address and shelter cost changes that result from the move.
- Vehicles
- Assets
- Child support expenses
- Health or hospital coverage and premiums
- Day care needs or providers.

PAM 105, pp. 7-8. Case workers are required to explain reporting requirements to clients at application, re-determination and when discussing changes in circumstances. Changes may be reported in person, by mail or by telephone. A DHS 2240, Change Report Form, may be used by clients to reports changes, but it is not mandatory. PAM 105 at 8.

In the record presented, Claimant testified that she reported her change of address to the [redacted]. However, Claimant did not report her change of address to the Department. The Department sent the verification forms to the Claimant's last known address and then followed up with the [redacted]. Almost two months elapsed between when the Department sent out the request for verifications and when Claimant called the Department to address the issue. Claimant should have reported her address change to the Department as required, forwarded her mail, or had somebody regularly checking the mailbox. Ultimately, it is found that the Department acted in accordance with department policy resulting in the proper closure of the Claimant's MA benefits.

Since Claimant's case was closed, Claimant lost her referral from the [redacted] for the MA waiver program. Claimant is encouraged to contact the [redacted]

to determine if there is a way that she can reapply for the MA waiver program through that agency.

B. MA Spend Down Calculation

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. PEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP related categories. *Id.*

There are various SSI related categories under which one can qualify for MA benefits. PEM 150-174. The MA regulations also divide MA recipients into Group 1 and Group 2 which relate to financial eligibility factors. Financial eligibility for Group 1 exists when countable income minus allowable expenses equals or is below certain income limits. PEM 105, p. 1. The income limits vary by category and are for non-medical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for FIP and SSI related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. *Id.*

To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual's protected income level (PPI) must be determined. The PPI is a set allowance for

non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM 544. If the fiscal group has net income that is the same or less than the PPI, RFT 240, then it will qualify for MA. If the net income is over the PPI, then the fiscal group may become eligible for assistance under the deductible program. A deductible 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 CRF 435.831.

The monthly protected income level for a Medical Assistance group of one living in Wayne County is $375.00 per month. RFT 240, RFT 200. In determining net income a standard deduction of $20 is deducted for SSI related Medical Assistance recipients. Health insurance premiums for the disabled individual can be added to the PPI to determine the Claimant's deductible. Claimant's health insurance premiums are $96.40/month which added to the protected income level leaves Claimant with monthly total needs of $471.40

In the present case, claimant's net income of $2,312.00 exceeds the monthly needs level by $1840.00 per month. Claimant is consequently ineligible to receive Medical Assistance. However, under the deductible program, if Claimant incurs medical expenses in excess of $1840.00 during the month, she may then be eligible for Medical assistance.

Claimant argues that she is unable to pay the deductible per month for her medical expenses because of limited means. This Administrative Law Judge sympathizes with the Claimant, but does not have the jurisdiction to change or alter department policy and state law at

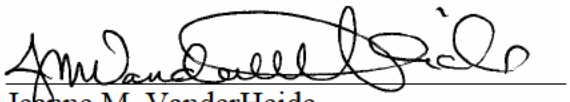
this time. Therefore, the undersigned finds that the Department has acted in accordance with department policy and law in setting a deductible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly closed the Claimant's MA Waiver case for failure to return verifications. The Administrative Law Judge further finds that the Department properly calculated the Claimant's MA Deductible.

Accordingly, it is ordered:

1. The Department's closure of the MA Waiver benefits is AFFIRMED.
2. The Department calculation of MA Deductible effective 3/1/09 is AFFIRMED.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/08/09

Date Mailed: 10/09/09

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.

JV/dj

cc: [redacted]