

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Claimant

By: Thomas Nowothy, POA

Reg. No: 2009-11908 &
2009-13711

Issue No: 2009; 2019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 31, 2009

Delta County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 hearing was held on March 31, 2009, in Escanaba. Claimant resides in a nursing home and was unable to appear.

Claimant was represented by [REDACTED], Power of Attorney. The POA was represented by [REDACTED], Attorney-at-Law.

The department was represented by Sarah Casey, LTC/ES worker.

ISSUE

Did the department correctly exclude the Blue Cross Blue Shield premium ([REDACTED]) from claimant's long-term care budget for July 2008?

FINDINGS OF FACT

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

(1) Claimant is a long-term care spouse, who resides in a long-term care facility.

(2) Claimant's husband, [REDACTED], is a community spouse and claimant's Power of Attorney.

(3) Claimant and the community spouse have a joint checking account. Claimant and her community spouse both receive pensions which are deposited in the joint checking account.

(4) [REDACTED] pays a [REDACTED] medical insurance premium from the joint account. The monthly amount of the premium is [REDACTED].

(5) The statement which [REDACTED] provides reads as follows:

[REDACTED]
[REDACTED].

(6) On November 26, 2008, the caseworker prepared a July long-term care budget. On Line 7 of the long-term care budget, the caseworker listed a Medicare premium of [REDACTED] and an [REDACTED] premium of [REDACTED] (total amount [REDACTED]). (Exhibit A1, page 45.)

(7) The caseworker did not include the [REDACTED] [REDACTED] premium because the statement shows only the name of [REDACTED]. **The caseworker did not have any evidence that claimant had an obligation to pay one-half of the [REDACTED] bill.**

(8) On December 19, 2008, claimant's POA requested a hearing to raise the issue that claimant was entitled to have half of the [REDACTED] premium added to Line 7 of her community spouse of her long-term care budget.

(9) The caseworker explained her reasoning in the hearing summary, in pertinent part:

The problem as I see it with the patient pay amounts for the eligible months is the fact that the [REDACTED] has not been included in the budget. This is because [REDACTED] pays for this entire bill. Per PAM 546, page 6, I cannot use this health insurance as a deduction on the budget. I am able to deduct the [REDACTED] as seen on the railroad income verification and the [REDACTED] bill using [REDACTED] written statement as this is his wife's expense.

(10) The department thinks that PEM 546 does not authorize the deduction of the [REDACTED] bill as a need item on claimant's patient pay budget.

(11) Claimant thinks that half of the [REDACTED] bill is a need item for claimant because PEM 546 recognizes that the POA paid [REDACTED] bill out of joint funds owned by claimant and her spouse.

(12) After the hearing, the caseworker requested a policy interpretation from Central Office. Central Office did not provide a timely response.

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).

The post eligibility PPA is **total income** minus **total need**.

Total income is the client's countable unearned income, plus his remaining earned income. PEM 546.

A careful review of the department's policy, as stated above, shows the department correctly decided not to include the [REDACTED] premium in claimant's budget because there was no verification in the record to establish that claimant had an obligation to pay one-half of the [REDACTED] bill.

There is no evidence in this record that the department acted in an arbitrary or capricious manner in excluding the [REDACTED] premium from claimant's patient pay computation. The department applied PEM 546 according to its plain meaning.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly calculated claimant's patient pay amount for December 2008.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 28, 2009

Date Mailed: April 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.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

JWS/tg

cc:

