

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: 2009-31145

Issue No: 2026

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 16, 2010

Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. 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 March 16, 2010.

ISSUE

Whether the department properly determined claimant's eligibility for Medical Assistance (MA).

FINDINGS OF FACT

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

(1) During April 2009, claimant was a resident of long-term care (LTC). Claimant's wife lived at home and was a community spouse.

(2) On or about April 8, 2009, the department received notice that claimant's spouse had entered long-term care. Claimant continued to reside in long-term care.

(3) April 8, 2009, the department prepared an MA budget. Claimant's total countable income for MA purposes was [REDACTED] consisting of his Social Security income. A standard [REDACTED] was disregarded from claimant's total countable income leaving net countable income for MA purposes of [REDACTED]. A patient allowance of [REDACTED] was deducted from net income as well as [REDACTED] for health insurance premiums leaving a final patient pay amount of [REDACTED]. Department Exhibit A, pgs 2-6. April 8, 2009, the department sent claimant timely written notice that his patient pay amount would be increased.

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).

Department manuals provide the following policy statements and instructions for caseworkers:

A post eligibility patient pay amount (PPA) is the L/H patient's share of their cost of long-term care (LTC) or hospital services. MA eligibility is determined first. Then, post eligibility PPA is determined when MA eligibility exists for L/H patient eligible under:

- Healthy Kids category.
- FIP-related Group 2 category.
- An SSI-related Group 1 or Group 2 category except:
 - QVWI.
 - SSI recipients.
 - Only Medicare Savings Program with no other MA coverage.

Post eligibility PPA is total income minus total need. Total income is the client's countable unearned income plus his remaining earned income. Total need is the sum of the following when allowed by later sections of this item:

- Patient allowance.
- Community spouse income allowance.
- Family allowance.
- Children's allowance.
- Health insurance premiums.
- Guardianships/conservator expenses.

The patient allowance for patients who are in or are expected to be LTC and/or a hospital for the entire L/H month is [REDACTED] per month if the month being tested is November 1999 or later. L/H patients can divert income to meet the needs of their community spouse. The community spouse income allowance is the maximum amount they can divert. To determine a community spouse allowance, shelter expenses are determined as well as excess shelter allowance if applicable. The community spouse income allowance is deducted from the L/H patient's countable MA income. Bridges Eligibility Manual (BEM) 546; Social Security Act, Section 1924; 42 CFR 435.725, .726, and .832.

A community spouse is defined as an L/H or waiver patient spouse when a spouse:

- Has not been, and is not expected to be, in a hospital and/or LTC facility for 30 days or more consecutive days, and
- For waiver patients only, the spouse is not also approved for the waiver. Bridges Program Glossary (BPG).

In this case, claimant was a resident of LTC and his wife was a community spouse. During April 2009, claimant's community spouse entered LTC and ceased to be a community spouse. As such, claimant was no longer eligible to divert part of his income to his wife. After careful examination of the record, it appears that the department included all allowable

deductions from claimant's income. Accordingly, the department has met its burden of proof and its action must be upheld. Finding of Fact 1-3. See policy citations above.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined claimant's eligibility for Medical Assistance.

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

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 18, 2010

Date Mailed: August 19, 2010

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 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.

JAB/db

cc:

A large black rectangular redaction box covering several lines of text in the distribution list.