

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: 2009-33132
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2010
Genesee 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 claimant's request for a hearing. After due notice, an in-person hearing was held on June 2, 2010.

ISSUE

Did the DHS properly calculate claimant's 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 herein, claimant has been a beneficiary of the Medicaid program funded in part by federal and state funds and administered by the State of Michigan.
- (2) Prior to the negative action herein, claimant was a recipient of a full and active Medicaid case.

(3) On May 5, 2009, the DHS became aware that claimant's RSDI increased effective December 1, 2008 to \$924.

(4) Pursuant to claimant's increase in the RSDI income, the department ran a new Medicaid budget which requires a deductible of \$496 per month.

(5) Claimant's prior RSDI was \$874. Claimant's increase is due to a federal/Social Security cost of living.

(6) On May 5, 2009, the DHS issued a notice to claimant informing him that his case will change from an active MA to a deductible of \$496 per month.

(7) On August 10, 2009, the claimant filed a hearing request which was outside the 90-day window. Claimant is entitled to a hearing every month for which he has a deductible and thus, the hearing request outside the 90-day window is not untimely to review ongoing deductible status under the Medicaid program.

(8) The State Office of Administrative Hearings and Rules did not schedule a hearing for claimant pursuant to his August 10, 2009 hearing request until March, 2010. Pursuant to claimant's request, SOAHR granted claimant an adjournment and the case was rescheduled for June 2, 2010.

(9) There has been no change in claimant's case as there was no cost of living granted for 2009.

(10) Claimant's expenses exceed his income.

(11) Claimant had a chore services provider which is a program administered by Community Health. There is no jurisdiction for this ALJ to review claimant's chore services. Claimant was given notice from Community Health as to how to request a hearing regarding chore services.

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 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). PEM 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). PEM 545.

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

Other applicable policy to the case herein is found in BEM Item 500. This policy covers income. The department is required in deductible cases to count the gross amount of the RSDI income. Certain deductions are allowed and were reviewed at the administrative hearing. Unrefuted evidence on the record, in fact, there were no other deductions allowed than those allowed in claimant's budget which resulted in a deductible of \$496.

The purview of an Administrative Law Judge is to review the department's actions and to make a determination if those actions were correct under policy and procedure and not contrary to law. This Administrative Law Judge has reviewed the department's Medicaid budget and finds that the deductible calculated was correct in this case and is consistent with DHS policy and procedure and not contrary to law. As such, the department's calculation and claimant's deductible of \$496 per month is a correct determination.

It is noted that if there were some variations or changes in the last few months, this Administrative Law Judge has not reviewed the same. Claimant and the department can meet with (regards to any such rent/utility changes).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's actions were correct.

Accordingly, the department's action is hereby UPHELD.

/S/

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

Date Signed: June 9, 2010

Date Mailed: June 9, 2010

JGS/tg

cc:

