

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: 2009-35469
Issue No: 2026; 6008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 14, 2009
Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 October 14, 2009. Claimant personally appeared and testified along with her daughter [REDACTED] r.

ISSUE

Did the department correctly determine that the claimant was not eligible for AD-CARE and regular Medicaid (MA), and that she had a MA deductible, thereby making her also ineligible for Independent Living Services (ILS)?

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 applied for ILS on May 21, 2009, and was approved for such services on June 3, 2009.

2. On June 12, 2009, claimant's application for MA eligibility was reviewed and determination made counting her RSDI monthly income of \$1,457. MA budget showed that the claimant was over income limits for AD-CARE, and that she had an MA deductible of \$921.00 per month.

3. As the claimant had an MA deductible she was no longer eligible for ILS unless she met the monthly deductible amount. On June 29, 2009, department mailed the claimant a notice telling her that her ILS case will close due to her deductible not being met, effective July 9, 2009. Claimant requested a hearing on July 29, 2009.

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 Independent Living Services (ILS) program is established pursuant to Title XX of the Social Security Act, 42 USC 1397, *et seq.* The department administers the ILS program under the provisions of MCL 400.14 in accordance with state and federal rules and the Services Manual (SM). The ILS program offers a range of payment and nonpayment related services to individuals who require advice or assistance to support effective functioning with the home or other independent living arrangement.

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). BEM 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). BEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. Reference Tables (RFT) 240 list the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 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 RFT. 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. BEM 545; 42 CFR 435.831.

Claimant receives monthly RSDI of \$1,457. Maximum monthly income level for AD-CARE coverage is \$903 per month. RFT 242. Claimant is therefore not eligible for AD-CARE.

Claimant's protected income level is \$391 per month. RFT 240. Claimant's MA deductible is therefore \$921 per month, as correctly determined by the department.

Lastly, departmental policy does require that a client be MA eligible in order to be eligible for ILS. ASM 362. Therefore, unless the claimant meets her deductible during any given month and is approved for MA, she cannot receive ILS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant had excess income for AD-CARE and regular MA, and that she also had an unmet MA deductible, making her ineligible for ILS.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 4, 2010

Date Mailed: January 6, 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 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.

IR [REDACTED]

cc:

[REDACTED]