

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-11664

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 15, 2010

Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 July 15, 2010. Claimant was represented at the hearing by [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly determine that claimant's patient pay amount was \$ [REDACTED] under circumstances?

FINDINGS OF FACT

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

- (1) The claimant was in long term care and has a community spouse.
- (2) The case was due for a review of eligibility on October of 2009.
- (3) The claimant listed an annuity on the application.
- (4) The annuity shows a monthly income of \$ [REDACTED] (exhibit 1).
- (5) The community spouse also has a \$ [REDACTED] per month RSDI income (exhibit 2).
- (6) The claimant has RSDI income in the amount of \$ [REDACTED] (exhibit 3).

- (7) It was determined that the claimant pay amount is \$ [REDACTED] (exhibit 4).
- (8) On October 2, 2009, a notice was sent to the claimant stating that the claimant pay amount would be increased to \$ [REDACTED] effective November 1, 2009.
- (9) On October 16, 2009, claimant filed a request for a hearing to contest the department's negative action.

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).

In the instant case the department conceded on the record that it made an error in making a determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that based upon the department's concession that the department failed to establish by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined claimant's patient pay amount was \$ [REDACTED]

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's original patient pay amount and to make new determination of claimant's patient pay amount based upon the appropriate information contained in the file. The new assessment shall be made in writing and sent to the claimant to notify him of the appropriate patient pay amount.

Landis

/s/
Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

2010-11664/LYL

Date Signed: August 10, 2010

Date Mailed: August 10, 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.

LYL/alc

cc:

