

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2010-26277
Issue No.: 2026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 29, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 29, 2010. The Claimant appeared by telephone and testified. [REDACTED], ES and [REDACTED], ES appeared and testified.

ISSUE

Did the Department properly figure the Claimant's Medical Assistance (MA) deductible?

FINDINGS OF FACT

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

1. As a result of a redetermination on December 4, 2009, the department placed the claimant in a MA spend down (deductible). The deductible currently is \$604.00 per month, based on an unearned countable income of \$1560.00. (Department exhibit 1).
2. The Claimant was required to complete a redetermination of her medical assistance eligibility in December 2009. The Claimant completed the redetermination in a timely manner.
3. The claimant was determined to be eligible for Medicaid subject to a spend down in the amount of \$604 per month. Exhibit 1

4. The department utilized the claimant's unearned income in the amount of \$1560 per month to determine her spend down amount. The department properly calculated the claimant's spend down amount.
5. As part of the redetermination the claimant submitted all of the verifications requested of her by her case worker in a timely manner and was not requested to submit verification of her chore services expenses. Additionally, the Claimant had been told by her previous worker that she did not have to submit chores services bills each month as her budget for chore services was already established.
6. The chore services expenses had been provided to the claimant's worker as recently as November 2009 and were stapled to the front of the claimant's file.
7. Because the claimant was not asked verify the chore services the claimant was not given credit for the amount of expenses she incurred for the cost of her personal-care which would have met the \$604 deductible amount. As a result of the claimant's caseworker failing to credit chore services, the claimant incurred medical expenses which otherwise might have been covered by Medicaid.
8. As a result of the first hearing which was conducted on September 9, 2009 the claimant's case was re-evaluated and it was determined by the department that the claimant's spend down amount had been met beginning December 2009 and it retroactively corrected the claimant's status as Medicaid eligible as the spend down had been met.
9. The claimant testified that she incurred Medicaid eligible expenses during the period which she paid for personally because she was not deemed Medicaid eligible as her spend down had not been met.
10. During the hearing the department advised if the claimant determined her Medicaid eligible expenses which she had paid from December 2009 to the date of the hearing and provide copies of the bills which she paid and provide proof of her payment the Department agreed it would forward the paid bills to the Department offices in Lansing to see if the claimant's expenses that were Medicaid eligible could be reimbursed.
11. Currently the Claimant is required to incur out-of-pocket expenses of \$595.13 for her chore services. And the balance of her personal care services are paid by the department and thus the \$604 spend down amount is met.

12. The claimant is currently eligible for any and all Medicaid eligible expenses which will be covered through her medical assistance benefits.
13. The claimant also seeks reimbursement for a separately metered electrical bill that powers the claimant's electrically powered wheel chair which she is required to use and is deemed medically necessary. The department said that this expense is not Medicaid eligible and therefore the claimant must pay this expense.
14. The claimant also pays for transportation to and from her doctor utilizing the smart bus system but cannot obtain receipts from the Smart system or the driver of her chore services provider who charges her for transportation. The claimant would like reimbursement through Medicaid for this expense.
15. The Claimant requested a hearing on December 23, 2009 requesting a hearing regarding the effect of her chore services on her Medicaid spend down amount. The request was received by the Department on December 30, 2010.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In the instant case, the Claimant questions the Department's calculation of her MA as she has paid part of her personal care services and did not understand why she was not meeting her spend down amount. At the hearing the Department acknowledged that the Claimant should have been eligible beginning December 2009 for Medicaid as her spend down amount has been met every month because the chore services amount exceeds the amount of the spend down. The Department erred when during the redetermination it neglected to include the monthly chore services as an ongoing medical expense which would have satisfied the Claimant's spend down. As noted in the findings of fact the Department correctly calculated the spend down amount but erred when it failed to include the amount of the Claimant's chore services which are ongoing and which had been received by the claimant since 2008.

During the hearing the department indicated that if the claimant could provide the bills which were paid by her which would have been Medicaid eligible during the period December 2009 through the date of the hearing as well as provide the department proof that the bills had been paid by the claimant, the department would forward the bills to the Department in Lansing and attempt to seek reimbursement for the claimant. The department did not and cannot guarantee that Medicaid bills already paid for will be reimbursed but did so as an accommodation to the claimant due to the department's error in failing to include the claimant's chore services in determining Medicaid eligibility.

Finally, the claimant raised questions with regard to Medicaid reimbursement for a separately metered electrical bill which she incurs to operate her electric wheelchair. The claimant has a letter of medical need regarding the wheelchair. Additionally, the claimant sought to obtain reimbursement for transportation services to and from the doctor and other medical appointments. The claimant is urged to seek advice and information from Medicaid directly with regard to obtaining reimbursement for if these services. Medicaid will be able to tell the claimant directly whether the services are reimbursable. The Administrative Law Judge cannot make a determination with regard to whether the bills are Medicaid eligible as there is no jurisdiction to decide same.

The Claimant is also urged to review the chore services budget with the chore services worker representative who prepared same to see if it is properly computed. The Chore services are computed by the Department of Community Health and were not reviewed during the hearing, and this Administrative Law Judge has no jurisdiction to review same.

The undersigned has reviewed the MA budget and found it to be correct. The claimant's unearned income is \$1560, per month; a \$20.00 standard exclusion, a \$527.70 deduction for insurance premiums, and a protected income limit of \$408.00 equals a \$604.00 deductible.

The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses.

PRT 240 lists the Group 1 MA PILs based on shelter area and fiscal group size. (PEM 544, p. 1)

And:

The claimant lives in area IV and the protected income level is \$408.00. (RFT 240, p.1).

This ALJ sympathizes with the claimant with regard to the Department's error but urges the Claimant to follow up with the Department with regard to its offer to submit any

2010-26277/LMF

medical bill paid by the claimant which would have been Medicaid reimbursable but for the department's error with regard to not applying the Claimant's ongoing chore services in meeting the monthly spend down amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, AFFIRMS the Department's decision in the instant case as to the calculation of the spend down amount. As the Department has already corrected the error with regard to crediting the claimant's chore services no further relief is necessary.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/06/2010

Date Mailed: 10/06/2010

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.

LMF/jlg

cc:

