

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Claimant

By: [REDACTED]

Reg. No: 2010-2959
Issue No: 2019; 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 12, 2010
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 May 12, 2010, in Traverse City. Claimant was represented by her daughter, [REDACTED]. Claimant resides in a nursing home and was unable to attend the hearing due to health issues.

The department was represented by Colleen Ryan (FIM) and Tom Jessmore (ES).

ISSUE

Did the department correctly calculate claimant's Patient Pay Amount for February 2009?

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 is a current MA-LTC recipient. She resides in a long-term care facility in Traverse City.

(2) Claimant became a resident of the Traverse City facility on February 7, 2009.

(3) The department set claimant's Patient Pay Amount on February 2009 at \$810.

(4) Because claimant did not reside in the [REDACTED] for the entire month of February 2009, the department used a fixed prorated protected income amount of \$391.

(5) Claimant reported the following income: RSDI \$1,298.

(6) During the computation of claimant's PPA, the department deducted claimant's Medicare premium (\$97) from claimant's RSDI income.

(7) Claimant's February 2009 MA-LTC budget shows the following: RSDI income--\$1,298; Medicare premium allowance--\$97; protected income level \$391; Patient Pay Amount--\$810.

(8) On May 5, 2009, the department sent claimant's guardian a written notice setting claimant's February Patient Pay Amount of \$810.

(9) On August 3, 2009, claimant's guardian requested a hearing on claimant's behalf.

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).

POST ELIGIBILITY PATIENT PAY AMOUNTS

DEPARTMENT POLICY MA Only

Use this item to determine post-eligibility patient-pay amounts (PPAs). A post-eligibility PPA is the L/H patient's share of their cost of LTC or hospital services. First determine MA eligibility. Then determine the post-eligibility PPA when MA eligibility exists for L/H patients eligible under:

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

MA income eligibility and post-eligibility PPA determinations are not the same. Countable income and deductions from income often differ. Medical expenses, such as the cost of LTC, are never used to determine a post-eligibility PPA. Do not recalculate a PPA for the month of death.

PATIENT-PAY AMOUNT

The post-eligibility PPA is total income minus total need.

Total income is the client's countable unearned income plus his remaining earned income. See "Countable Income" below.

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.
- Guardianship/Conservator Expenses.

COUNTABLE INCOME

For all persons in this item, determine countable income as follows:

- RSDI, Railroad Retirement and U.S. Civil Service and Federal Employee Retirement System.
- Non-SSI income for SSI recipients

Use countable income per BEM 500 and 530. Deduct Medicare premiums actually withheld by:

- Including the L/H patient's premium along with other health insurance premiums, and

BEM 546 POST-ELIGIBILITY PATIENT-PAY AMOUNTS BRIDGES ELIGIBILITY MANUAL

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- Subtracting the premium for others (example, the community spouse) from their unearned income.

Exception: Do not use the following special exclusion policies regarding RSDI. These policies only apply to eligibility, not post-eligibility patient-pay amounts.

- BEM 155, "503 COUNTABLE RSDI".
- BEM 156, "COUNTABLE RSDI".
- BEM 157, "COUNTABLE RSDI".
- BEM 158, "COUNTABLE RSDI".

Note: The checks of clients on Buy-In increase about three months after buy-in is initiated. Recompute the PPA when the client's check actually changes. BAM 810 has information about buyin.

- Earned and Other Unearned Income.

Use BEM 500 and 530. For clients, use FIP- or SSI-related policy as appropriate. Use SSI-related policies for all other persons. For the client only, disregard \$65 + 1/2 of his countable earned income. Use RFT 295 to determine the disregard. Earned income minus the disregard is remaining earned income.

PATIENT ALLOWANCE

The patient allowance for clients who are in, or are expected to be in, LTC and/or a hospital the entire L/H month is:

- \$60 if the month being tested is November 1999 or later, and
- \$30 if the month being tested is before November 1999.

Exception: Use \$90 for any month a patient's VA pension is reduced to \$90 per month."

Use the appropriate protected income level for one from RFT 240 for clients who enter LTC and/or a hospital but are not expected to remain the entire L/H month.

Reminder: The PPA is not reduced or eliminate in the month the person leaves the facility.

Claimant has the burden of proof to show that the department failed to correctly compute her February 2009 Move in-Patient Pay Amount.

The preponderance of the evidence in the record shows that the department correctly gave claimant the benefit of all deductions to which she was entitled, based on the verifications available to the caseworker at the time the budgets were computed.

The department correctly used the standard move-in protected income amount (\$391) in computing claimant's February 2009 Patient Pay Amount.

Based on the evidence of record, the Administrative Law Judge concludes that the department correctly processed claimant's MA-LTC eligibility for the month of February 2009.

The Administrative Law Judge has no authority to grant equitability in order to provide additional benefits which claimant's guardian requested at the hearing. Equitable remedies can only be provided by the [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed claimant's Patient Pay Amount for February 2009.

Therefore, the action taken by the department is, hereby, **AFFIRMED**.

SO ORDERED.

/s/
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 6, 2010

Date Mailed: July 7, 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.

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cc:

