

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.: 2010-30412
Issue No.: 2019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 6, 2010
Macomb County DHS
(SSPC-East)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 6, 2010. Claimant, now deceased, was represented by his daughter and son who were appointed representatives by Claimant's spouse, [REDACTED].

ISSUE

Did the Department of Human Services (Department) properly determine the Claimant's spousal Medical Assistance (MA-P) program patient pay amount?

FINDINGS OF FACT

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

1. On March 19, 2009, the Department completed a new MA-P budget. The Department determined that, based on the Retirement and Survivors' Disability

Income (RSDI) amount, Claimant had excess income for MA-P and, thus, required a patient pay amount.

2. Claimant filed a request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA-P) 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 administers the MA-P 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 MA-P program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105, p. 1. The MA-P program is comprised of several categories. One category is for Family Independence Program (FIP) recipients while another is for Social Security Income (SSI) recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program and are, thus, categorized as either FIP-related or SSI-related. *Id.* To receive MA-P under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women receive MA-P under FIP-related categories. *Id.*

In general, the terms “Group 1” and “Group 2” relate to financial eligibility factors. PEM 155 through 174 describe SSI-related categories. PEM 105, p. 1. Financial eligibility for Group 1 exists when countable income minus allowable expenses equals or is below certain income limits. *Id.* The income limits vary by category and are for non-medical needs such as food and

shelter. *Id.* Medical expenses are not used when determining eligibility for FIP- and SSI-related Group 1 categories. *Id.* Extended-Care benefits is an SSI-related Group 1 MA-P category.

FIP- and SSI-related Group 2 eligibility is possible even when net income exceeds the income limit because incurred medical expenses are considered. *Id.* Eligibility is determined on a calendar month basis. PEM 105, p. 2. Individuals who are aged (65 or older) blind or disabled fall under the SSI-related Group 2 MA category. PEM 166, p. 1

As noted above, Extended-Care is an SSI-related Group 1 MA category that is available only to L/H and waiver clients who are aged (65 or older), blind, or disabled and whose gross income does not exceed \$1,869.00 for 2007 and \$1,911.00 for 2008. PEM 164, p. 2. An L/H patient is an MA-P client who was in the hospital and/or long-term care facility in a calendar month containing at least one day that is part of a period in which a person was (or is expected to be) in a long-term care facility and/or hospital for at least 30 consecutive days and the person was not a waiver patient. PRG Glossary, p. 22. Countable income may be more than the amount a person actually receives because it is the amount before any deductions, including deductions for taxes and garnishments. PEM 500, p. 1. Court-ordered child support is not deducted from income in determining Extended-Care eligibility. PEM 164, p. 2; PEM 541, p. 1. The patient allowance for clients who are in, or expected to be in, a long-term care facility and/or hospital the entire L/H month is \$60.00. PEM 546, p. 1.

Assets must be considered in determining MA-P eligibility. PEM 400, p. 1. Assets include cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. PEM 400, pp. 1 and 6. Available means that someone in the asset group has the legal right to use or dispose of the asset. PEM 400, p. 6.

Income eligibility for Group 2 MA-P exists for the calendar month tested when there is no excess income or allowable medical expenses that equal or exceed the excess income. PEM 545, p. 1. The fiscal group's monthly excess income is called a deductible amount. PEM 545, p. 9. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. *Id.*

In the present case, Claimant's spouse contested the Community Spousal contribution. The Department calculated Claimant's spousal contribution for February 2009 to be \$1,921 and, starting in April, to be \$1,469. The Department budget reflected applicable deductions and expenses. Claimant contends the amounts allocated for the monthly expenses are incorrect and additional expenses should be considered when determining the amount of contribution.

Examining the budget completed by the Department, this Administrative Law Judge has determined the Department has used incorrect amounts for parts of the Community Spouse Monthly Budget. Specifically, Claimant has demonstrated expenses in the following amounts:

Mortgage: \$92.16

Taxes (monthly): \$216.75

Insurance: \$51.00

The Department had incorrectly determined Claimant's tax obligation to be \$84.02 per month. The Department also incorrectly determined the house insurance at \$17.25 and not \$51 a month. These amounts change the amount of deductions available to Claimant to offset income contributed to the spousal budget.

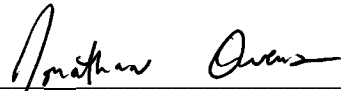
Claimant's representative would like consideration of other household expenses, such as food, yard and home maintenance, auto and warranty insurance, clothing, medical co-pays, personal care and newspapers and magazines. Unfortunately, while these are all appropriate

expenses when considering the limited income of Claimant, for other purposes, these expenses are not allowable for consideration in a medical budget determination. PEM 546.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's budget is not accurate and needs to be re-determined using the correct amounts.

Accordingly, the Department's decision is hereby REVERSED. The Department shall complete new budgets from February 2009 forward and advise Claimant's spouse of the result.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 7, 2010

Date Mailed: June 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.

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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.

JWO/pf

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