

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.: 2010-34601
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 10, 2010
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 conducted from Detroit, Michigan on June 10, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly complied with a 4/15/10 administrative order recalculating Claimant's medical expenses and whether DHS properly disregarded a document purporting to summarize Claimant's out-of-pocket medical expenses.

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 an ongoing senior or disabled FAP recipient.

2. SOAHR issued an administrative decision on 4/15/10 ordering DHS to recalculate Claimant's FAP benefits beginning 8/2009 due to a failure to include medical expenses.
3. The 4/15/10 order specifically cited a failure by DHS to budget: at least \$17.40/month in prescriptions, an uncovered prescription from 8/2009 for \$32.40 and dental insurance for \$52/month beginning 11/2009.
4. DHS complied with the above order and supplemented Claimant for FAP benefits beginning 8/2009 (and all subsequent months) based on updated medical expense amounts.
5. Claimant submitted an AARP Medicare Summary (Exhibit 14) showing a "true out of pocket" medical expense amount of \$184.34 for 12/2008.
6. DHS did not consider Claimant's AARP Medicare Summary to be sufficient verification of Claimant's medical expenses because Claimant has three insurances other than Medicare.
7. Claimant submitted a hearing request on 5/12/10 contending DHS should have considered Claimant's AARP Medicare Summary expenses as verification of Claimant's out-of pocket medical expenses and contending that DHS failed to comply with the administrative order dated 4/15/10.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are

found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

For senior or disabled persons, medical expenses are a factor in calculating FAP benefits. BEM 554 at 6. DHS is to budget medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. *Id* at 9. Only the non reimbursable portion of a medical expense should be budgeted. *Id*.

An administrative hearing was held on 3/22/10 concerning Claimant's medical expenses. The accompanying administrative decision was mailed on 4/15/10. Exhibits 40-45. Claimant contends that the decision ordered DHS to budget out of pocket medical expenses listed on a Medicare Rx Summary. Exhibit 14.

The 4/15/10 decision makes no mention of such an order. The decision specifically refers to the following medical expenses that DHS did not budget: \$17.40 for prescriptions, a \$32.40 prescription from 8/2009 and \$52/month for dental insurance. It is found that DHS did not violate the 4/15/10 administrative decision by failing to budget Claimant's medical expense amount from Exhibit 14.

DHS budgeted all of the medical expenses which they were ordered to budget. Claimant received a supplement of FAP benefits for each month since 8/2009 as a result of the adjustment. Exhibits 47, 52-54. It is found that DHS complied with the administrative order issued on 4/15/10.

DHS is required to budget any out-of-pocket medical expenses in calculating Claimant's FAP benefits whether ordered by administrative decision or not. Claimant contends that her out-of-pocket expenses as indicated on an AARP Medicare Rx Plan Summary (Exhibit 14) should be budgeted by DHS as a medical expense. The summary indicates an amount of "True Out-of-

Pocket” medical expenses which Claimant argues is exactly what should be budgeted per DHS policy. DHS did not accept the document as an accurate verification of medical expenses. The DHS contention is found to be correct.

Claimant testified that she has four insurances: Medicare, Medicaid, AARP (vision and dental) and an unspecified fourth coverage which also covers vision and dental. Exhibit 14 accurately calculates Claimant’s medical expenses not covered by Medicare; however, because Claimant has Medicaid as a secondary medical coverage and other insurances as a third and fourth level of coverage, many of Claimant’s uncovered Medicare expenses will be covered by a different insurance. Claimant’s Medicare carrier would have no way or reason to calculate Claimant’s medical expenses not covered by any of her insurance providers. Thus, Exhibit 14 is only a “true” out-of-pocket verification of medical expenses for persons with no other health insurance. It is found that DHS properly disregarded Exhibit 14 as a verification of Claimant’s out-of pocket medical expenses.

Rejection of the document as proof of out-of-pocket expenses does not prevent Claimant from verifying medical expenses with receipts. Claimant offered some medical receipts during the hearing but Claimant testified that each one was submitted to DHS either with Claimant’s 5/12/10 hearing request or afterwards. DHS has yet to determine whether Claimant’s submissions will impact future FAP benefits. The undersigned lacks jurisdiction to address DHS decisions that are yet to be made.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly complied with the

4/15/10 administrative decision and that DHS properly excluded Claimant's AARP Medicare Summary verification as proof of Claimant's medical expenses.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/15/2010

Date Mailed: 6/15/2010

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 60 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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