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

IN THE MATTER OF:



Reg No.:201043694 Issue No.:2019

Hearing Date: August 25, 2010 Jackson 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 the claimant's request for a hearing. After due notice, an inperson hearing was held on August 25, 2010. The claimant appeared and testified.

### ISSUE

Did the Department of Human Services (the department) properly determine cla imant's patient pay amount?

### FINDINGS OF FACT

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

- Claimant is a Medical Assistance benefit recipient.
- Claimant receives RSDI income.
- (3) The state starting paying claim ant's Medicare premium which resulted in increase in her RSDI income.
- (4) When the increase was budgeted, it re sulted in increasing the patient pay amount.

2 201043694/LYL

(5) On December 14, 2009, the department sent claimant notice that her patient pay amount would be increased.

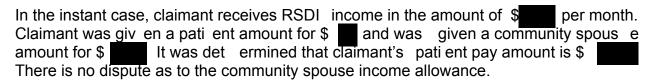
(6) On December 17, 2009, claimant c onservator filed a request for a hearing t o contest the department's action.

# **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implemented by Title 42 of the C ode 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

BEM, Item 546, is the item used to dethermine post eligibility patient pay amounts (PPA's). A post eligibility PPA is the L/H patient share of their cost of long term care or hospital services. The department is to fi rst determine MA eligibility. Then the department is to determine the po st eligibility to patient pay amount when M A eligibility exists for L/H patient's eligible under an SSI related Group 1 or Group 2 category. MA income eligibility and post eligibility pat ient pay amount determinations are not the same. Countable inc ome and deductions from income are often different. Medical expenses, specific costs of long term care, are never used to determine a post eligibility patient pay amount. Do not rec alculate the patient pay amount for the month death. The post eligibility patient pay amount is total income minus total need. Total income is the client's countable unearned income plus its remaining earned income. Total need is the sum of the following when allowed by later sections of this item: patient allowance, community spouse, income allowance, family allowance, childr en's allowance, healt h insurance premiums, and guardianship/conservator expenses. BEM, Item 546, p. 1.

The patient allowanc e for client s who are in and/or expected to be in long term care and/or in hospital the entire L/H month is: \$ if the month being tested is November 1999 or later and if the month being tested is before November 1999. The department is to use the approper riate protected income level for 1 from RFT 240 for clients who enter to long term care and/or a hospital but are not expected to remain the entire L/H month. Reminder: That the patient pay amount is not reduced or elimin ated in the month the person leaves the facility. BEM, Item 546, p. 2.



3 201043694/LYL

Claimant has the burden of proof to show that she has complied with all the MA-Lon g term care eligibility requirem ents in order to have pat ient pay amount continued at its low as possible level. Claimant has not provided any information that there is hardship to patient's community spouse. Claimant has failed to meet her burden of proof in this case. The preponderance of the evidence shows that the department correctly computed that claimant 's patient pay amount for the months in question. A careful review of the record reveals no arbitrary or capricious action on the part of the loc al office in processing claimant's patient pay amounts.

## **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the department has established 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.

Accordingly, the department's decision is AFFIRMED.

/s/	
	Landis Y. Lain Administrative Law Judge For Ismael Ahmed, Director Department of Human Services
Date Signed: <u>10/19/2010</u>	
Date Mailed: <u>10/19/2010</u>	

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party wit hin 30 days of the mailing date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 60 days of the filing of the original request.

4 201043694/LYL

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 ti mely request for rehearing was made, within 30 days of the receipt of the rehearing decision.

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