

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 in-person hearing was held on August 25, 2010. The claimant appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine claimant'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:

- (1) Claimant is a Medical Assistance benefit recipient.
- (2) Claimant receives RSDI income.
- (3) The state started paying claimant's Medicare premium which resulted in an increase in her RSDI income.
- (4) When the increase was budgeted, it resulted in increasing the patient pay amount.

- (5) On December 14, 2009, the department sent claimant notice that her patient pay amount would be increased.
- (6) On December 17, 2009, claimant conservator filed a request for a hearing to contest the department's action.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

BEM, Item 546, is the item used to determine 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 first determine MA eligibility. Then the department is to determine the post eligibility to patient pay amount when MA eligibility exists for L/H patient's eligible under an SSI related Group 1 or Group 2 category. MA income eligibility and post eligibility patient pay amount determinations are not the same. Countable income 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 recalculate 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, children's allowance, health insurance premiums, and guardianship/conservator expenses. BEM, Item 546, p. 1.

The patient allowance for clients who are in and/or expected to be in long term care and/or in hospital the entire L/H month is: \$ [REDACTED] if the month being tested is November 1999 or later and [REDACTED] if the month being tested is before November 1999. The department is to use the appropriate 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 eliminated in the month the person leaves the facility. BEM, Item 546, p. 2.

In the instant case, claimant receives RSDI income in the amount of \$ [REDACTED] per month. Claimant was given a patient amount for \$ [REDACTED] and was given a community spouse amount for \$ [REDACTED]. It was determined that claimant's patient pay amount is \$ [REDACTED]. There is no dispute as to the community spouse income allowance.

Claimant has the burden of proof to show that she has complied with all the MA-Long term care eligibility requirements in order to have patient 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 local office in processing claimant's patient pay amounts.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of 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: 10/19/2010

Date Mailed: 10/19/2010

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 of the rehearing decision.

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