

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2010-44348
Issue No.: 2019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 21, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, a telephone hearing was held on October 21, 2010. The claimant appeared and testified. [REDACTED], ES and [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly determined the Claimant's MA personal 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. The Claimant was admitted to a Long-Term Care ("LTC") facility approximately 7 years ago with no definitive discharge date. The Claimant currently continues to reside in the LTC facility as of the date of the hearing.
2. The Claimant receives \$1060 gross in RSDI social security benefits a month. (Exhibit 1)
3. The Claimant also receives \$158.75 from a union pension for her disability. Exhibit 3
4. The Claimant did not report to the Department the receipt of her pension income as she believed she did not have to report it as it was under \$200 a month. The Claimant began reporting the pension income to the Department in July 2010.

5. The Department inadvertently learned about the additional pension money and after confirming same revised the claimant's patient paid amount to include the pension money which caused an increase in the claimant's patient pay amount. Exhibit 1, 3 and 4.
6. A Notice of Case Action was sent in April 2010 advising the claimant that her patient pay deductible for her long term care had increased to \$1158. Exhibit 2
7. The claimant's current patient pay amount, as of the date of the hearing, for her long term care is \$1047. This reduction occurred because the department credited the claimant for Medicaid Part B insurance premiums and deducted \$110 from the claimant's patient pay amount.
8. On April 29, 2010 the Department received the Claimant's Request for Hearing protesting Department's determination of her personal pay amount increase.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105 Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP-related or SSI-related. *Id.* To receive MA 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 under FIP-related categories. *Id.*

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 155 through 174 describes SSI-related categories. BEM 105 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 are an SSI-related Group 1 MA category.

As noted above, Extended-Care is an SSI-related Group 1 MA category that is available only to Long term care/hospitalization clients (L/H) and waiver clients who are aged (65 or older), blind, or disabled and whose gross income does not exceed the limits set for eligibility. BEM 164 L/H patient is a MA client who was in the hospital and/or LTC 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 LTC facility and/or hospital for at least 30 consecutive days and the person was not a waiver patient. PRG Glossary, p. 22 Countable income is determined to establish the patient pay amount that a LTC client must contribute to their care. The 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. BEM 164; BEM 541 The patient allowance for clients who are in, or expected to be in, a LTC and/or hospital the entire L/H month is \$60.00. BEM 546

Beginning approximately 7 years ago the Claimant has been residing continuously in a LTC facility, the Department correctly determined the Claimant's PPA (patient pay amount) as \$1158. Rent, child support payments, and telephone expense and other personal expenses were properly excluded in the calculation. BEM 546

So long as the Claimant remains in the LTC, she is responsible for the Patient Pay Amount and will be allowed an allowance of \$60 for her needs. The patient pay amount is used to defray a part of the cost of long term care; the balance is paid by the government. While the Administrative Law Judge is sympathetic to the Claimant's complaints, the trade off for including the Claimant's union pension in the countable income to determine the patient pay amount is that the Claimant is afforded long term care. The Claimant's total income would not otherwise be sufficient to pay for the cost of care without the government assuming financial responsibility for a part of the long term care. Ultimately, the Department established it acted in accordance with department policy when calculated the Claimant's MA Patient Pay Amount. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with department policy when it calculated the Claimant's Patient Pay Amount.

Accordingly, it is ORDERED:

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The Department's determination is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/25/2010

Date Mailed: 10/25/2010

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 mailing 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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