

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-45165
Issue No.: 2026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 29, 2010
DHS County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 November 29, 2010. Claimant was represented at the hearing by [REDACTED], Claimant's daughter-in-law. [REDACTED] appeared on behalf of the Department of Human Services (Department).

ISSUE

Was the Department correct in determining Claimant's Medical Assistance (MA) eligibility?

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 was an ongoing recipient of MA benefits with a deductible.
2. The Department issued an Advance Negative Action Notice on April 13, 2010, with the effective date of December 31, 2009, suspending Home Help Services.
3. Claimant received Home Help Services for at least 90 days from the effective date of suspension.
4. The Department did not consider Claimant's Home Help Provider expenses for the purpose of meeting her MA deductible.
5. Claimant requested a hearing on May 31, 2010.

CONCLUSIONS OF LAW

The 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 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).

Income eligibility exists for the calendar month tested when:

- There is no excess income
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When **one** of the following equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**:

- Old bills (defined in EXHIBIT IB).
- Personal care services in clients home, (defined in Exhibit II), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).
- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC). BEM 545

Eligibility and Personal Care

Clients with excess income who are receiving personal care Home Help Services in their home may be eligible for ongoing MA coverage. MA coverage can be authorized or continued at the client's option, provided all conditions in this Exhibit are met.

The client's option to pay a portion of her personal care cost works much the same as paying a patient-pay amount to a hospital or long-term care facility. When a client chooses this option, her services specialist subtracts her excess income from the Department payment for personal care services. The client is then responsible for paying her excess income amount directly to her personal care provider. This ensures MA does not pay the client's liability.

The client will be responsible for paying her excess income to her Home Help Services personal care provider.

Sometimes personal care costs exceed the maximum amount services will pay. In such cases, the client is responsible for the amount services will not pay. If the client chooses the policy option described in this Exhibit, she will be responsible for the amount services will not pay in addition to her excess income. Under these circumstances, this option may not be advantageous to the client. BEM 545.

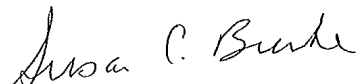
Conditions of Eligibility

1. The client must meet all nonfinancial eligibility factors and all financial eligibility factors **except** income.
2. The client must have an active Home Help Services case **and** be receiving personal care services in her home. Consider the services case active as soon as the services specialist begins to work with the client. The services specialist is responsible for obtaining verification of the need for personal care services and making the Home Help eligibility determination.
3. The amount DHS has or will approve for personal care services must exceed the client's excess income. Contact the services specialist for the following information:
 - The amount DHS has or will approve for personal care services (line 43 of the DHS-2355, Model Payment Authorization).
 - The amount of personal care services required but not approved by DHS.
4. The client must agree to pay her excess income to her provider. If **all** of the above conditions exist, income eligibility begins the month DHS reduces or will reduce its payment for personal care services by the amount of the client's excess income. The client's excess income becomes her **personal care co-payment. Within two working days** of determining the client is eligible under this option, notify the services specialist in writing of the MA effective date and the amount of the client's personal care co-payment. Income eligibility does not exist if **any** of the above conditions are not met. BEM 545.

In the present case, Claimant received services from a Home Help Provider prior to and 90 days after the suspension of services date of December 31, 2009. Claimant's representative, [REDACTED], testified that the worker mailed in requests for payment, and that the worker worked every day. Home Help Services was denied because Claimant did not have active MA. Nothing in policy states that this ends the evaluation by the Department. The Department provided inadequate explanation regarding why the services provided by the Home Help Provider were not used to meet Claimant's deductible. Claimant's Home Help expenses should be considered in meeting Claimant's deductible. BEM 545. (Please note that the following instructions may be useful in Bridges: Under "Medical Expense Information", worker needs to change the Medical Expense Type to "Personal care services provided in home, AFC or HA", and change the verification to "ASCAP Interface." Then, under the Medical Expense Details at the bottom of the page, worker needs to put the amount of the deductible in "Original Client Liability" and "Remaining Client Liability Amount." Once worker does this, worker will need to run EDBC and it should correct the eligibility back to at least February 2009).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly determined Claimant's MA eligibility. The Department's decision in this regard is hereby REVERSED. It is ORDERED that Claimant's MA case shall be reevaluated as of December 31, 2009, and all medically related expenses shall be reprocessed including the Home Help Care expenses. Claimant may apply for additional Home Help Care expenses should Claimant once again enlist the assistance of the Home Help Care.



Susan C. Burke
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 1, 2010

Date Mailed: December 1, 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.

SCB/pf

cc:

