

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

IN THE MATTER OF:



Reg. No: 2010-49082  
Issue No: 2026  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
December 2, 2010  
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 December 2, 2010. The claimant appeared and provided testimony.

ISSUE

Did the department properly place the claimant on a Medicaid deductible program on June 21, 2010?

FINDINGS OF FACT

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

1. The claimant was on a Early Widow (er) Medicaid program until June 21, 2010, when the department discovered she had been placed on this program in error.
2. The department contacted the Social Security Administration on July 5, 2010 and confirmed that while the claimant was a disabled, surviving, divorced wife, that she was receiving Medicare Part A. (Department Exhibit 3)
3. The claimant's MA coverage was changed to a deductible program, with a monthly deductible of \$ [REDACTED] (Department Exhibit 1)

4. The claimant submitted a hearing request on June 29, 2010.

### 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy lists the requirements for a claimant to qualify for the Early Widow(er) category of Medicaid. BEM 157. This policy indicates that a person must not be entitled to Medicare Part A (hospital insurance) to be eligible for MA under the Early Widow(er) category. BEM 157.

The claimant does not dispute that she does not receive Medicare Part A. This was confirmed by the department in a contact with the Social Security Administration on July 5, 2010. While the claimant does meet other eligibility criteria, she is excluded from eligibility for the Early Widow(er) MA program because she does receive Medicare Part A.

As the claimant does not meet eligibility for other MA programs (her RSDI income makes her excess income), the only program the claimant could have MA eligibility through was the deductible program. The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines).  
BEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Program Reference Table (PRT). An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess

income to be eligible for MA, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly placed the claimant on a Medicaid deductible program on June 21, 2010.

Accordingly, the department's decision is UPHELD. SO ORDERED.

Suzanne

/s/ \_\_\_\_\_  
L. Morris  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 16, 2010

Date Mailed: December 17, 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.

SLM/alc

cc: 