

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.: 201049624
Issue No.: 2026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 10, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 November 10, 2010. The Claimant appeared, along with his son [REDACTED], and both testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's 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 \$572 deductible.
- (2) Claimant submitted a letter dated April 6, 2010 from his home help provider, Ronda Wilkins, showing that he incurs \$150 per week charges for home help care.
- (3) This letter was referred to Adult Home Help Services for processing and approval.
- (4) Adult Home Help Services refused to authorize home help services.

- (5) A hearing with the Department of Community Health was held on July 8, 2010 regarding Claimant's Home Help Services.
- (6)
- (7) The Department did not consider Claimant's home help provider expenses for the purpose of meeting his Medicaid deductible.
- (8) Claimant requested a hearing on June 24, 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 (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).

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).

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 his personal care cost works much the same as paying a patient-pay amount to a hospital or longterm care facility. When a client chooses this option, his services specialist subtracts his excess income from the DHS payment for personal care services. The client is then responsible for paying his excess income amount directly to his personal care provider. This ensures MA does not pay the client's liability. Discuss this policy option with the client. Advise the client that he will be responsible for paying his excess income to his Home Help Services personal care provider. This cost may include the employer's portion of FICA taxes. The services specialist has information about what portion of the client's excess income is for the provider and what portion is for FICA taxes. 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, he will be responsible for the amount services will not pay in addition to his excess income. Under these circumstances, this option may not be advantageous to the client. **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 his 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 his excess income to his 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 his **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. SSI-related LOA2 software generates a memo along with the client notice. Income eligibility does not exist if **any** of the above conditions are not met. Return to the procedure that sent you to this Exhibit. BEM 545.


In the present case, Claimant receives services from [REDACTED], a home help provider. Claimant submitted a letter dated April 6, 2010 from his home help provider showing that he incurs \$150 per week charges for home help care. This letter was referred to Adult Home Help Services for processing, and it was denied because Claimant did not have active Medicaid. 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. The Department asserted at hearing that once Adult Home Help Services denied, no further inquiry was required. Nothing in policy supports this position.

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, and it is ORDERED that the Department's decision in this regard be, and is, hereby REVERSED. Claimant's MA case shall be reevaluated as of March 2010, and all medically related expenses shall be reprocessed including the home help care

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expenses provided by [REDACTED].



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2010

Date Mailed: December 2, 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.

AM/hw

cc:

[REDACTED]