

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.: 2010-51709
Issue No.: 2000
Case No.: [REDACTED]
Hearing Date: January 31, 2011
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Monday, January 31, 2011. The Claimant did not appear however his court appointed guardian and co-trustee, [REDACTED], and co-trustee [REDACTED], appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly determined the Claimant's Patient Pay Amount?

FINDINGS OF FACT

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

1. The Claimant resides in a nursing due to his mental illness.
2. In February 1999, the Probate Court entered Letters of Guardianship on behalf of the Claimant.
3. In August 2007, an Irrevocable Special Needs Trust was established and signed by the Claimant's Guardian and Conservator.
4. In 2010, the Guardian and Conservator were notified of an increase in the Patient Pay Amount ("PPA") on at least three occasions.

5. Upon each Notice of Case Action, the Guardian/Conservator requested a hearing.
6. In December 2010, a hearing was held regarding the issue of the PPA increase.
7. On January 12, 2011, a Hearing Decision issued ordering the Department to recalculate the Claimant's PPA amount.
8. On or about January 23, 2011, the Department recalculated the PPA amount which the Guardian/Conservator agreed with.

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).

A Special Needs Trust must contain resources of a person who is under age 65 and is disabled and must, in part, impose on the trustee an automatic duty to repay Medicaid upon the person's death. BEM 401 Assets of a trust are countable regardless if the asset is unavailable to the person because it is owned by the trust versus the person. BEM 401 An irrevocable trust's principal is a countable asset if there is any condition under which the principal could be paid to or on behalf of the person from the irrevocable trust. PEM 401 The value of the trust's income is a countable asset if there is any condition under which the income could be paid to or on behalf of the individual. BEM 401

In this case, the Department notified the Claimant's Guardian/Conservator of the increased PPA amount. Upon each notification, a written request for hearing was received. In December 2010, a hearing was held which addressed the increased PPA. As a result, the Department was ordered to recalculate the Claimant's PPA. Shortly thereafter, the Department complied with the order and a new PPA amount was determined. The Guardian/Conservator agreed with the PPA amount. In light of the foregoing, there is no issue that needs to be addressed.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that in light of the accord there is no issue to decide.

2010-51709/CMM

Accordingly, it is ORDERED:

The Claimant's August 3, 2010 request for hearing is dismissed.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/3/2011

Date Mailed: 2/3/2011

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.

CMM/jlg

cc:

