

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2010-10917

Issue No: 2026

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 11, 2010

Barry County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, February 11, 2010. The claimant personally appeared and testified on her own behalf with her daughter, [REDACTED] as a witness.

ISSUE

Did the department properly place the claimant's Medical Assistance (MA) case in spend-down status and determine her monthly deductible?

FINDINGS OF FACT

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

(1) On February 2, 2009, the claimant applied for Medical Assistance and State Disability Assistance.

(2) Subsequently, the Medical Review Team determined that the claimant met the disability criteria for Medical Assistance and State Disability Assistance.

(3) On September 15, 2009, the department caseworker sent the claimant a notice notifying that her SSI Medicaid was closing effective October 31, 2009 where her case would then be reinstated as a deductible case of [REDACTED] effective November 1, 2009 as a result of her Social Security RSDI income of [REDACTED] per month. (Department Exhibit 15-23)

(4) On November 9, 2009, the department caseworker received a letter from [REDACTED] [REDACTED] notifying the department that the claimant would like to appeal her Medicaid spend-down as the result of an undue hardship. The claimant's LVAD/heart transport social worker from [REDACTED] stated that the claimant is a potential transplant candidate where she would require close medical follow-up and will always require anti-rejection medication after transplant to ensure that her new organ is not rejected by her immune system. The claimant's medications are very costly. The loss of those medications after transplant would place the claimant at a very high risk of rejection or even death. As mentioned earlier, these medications and taking them on a timely basis are crucial for the success of her potential transplant. (Department Exhibit 4-6)

(5) On November 10, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

(6) Subsequently, the department caseworker sent a request to the Exceptions Unit to review the claimant's case and instructed the claimant to apply for the waiver program.

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).

The department's program manuals include the following relevant policy statements and instructions for caseworkers:

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Deductible Period

Each calendar month is a separate spend-down period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "**EXHIBIT I**") that equal or exceed

the deductible amount for the calendar month tested. PEM, Item 545, p. 9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. PAM 130 explains verification and timeliness standards. PEM, Item 545, p. 9.

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. Medicaid is also known as Medical Assistance (MA). PEM 105.

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). PEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. PEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in PEM 544. PEM 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. PEM 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. PEM 545; 42 CFR 435.831.

UNDUE HARDSHIP SSI-Related MA Only

A client whose countable assets exceed the asset limit is nevertheless asset eligible when an undue hardship exists. Assume that denying MA will **not** cause undue hardship unless there is evidence to the contrary. An undue hardship exists when the client's physician (M.D. or D.O.) states that:

- Necessary medical care is **not** being provided, and
- The client needs treatment for an emergency condition.

A medical emergency is any condition for which a delay in treatment may result in the person's death or permanent impairment of the person's health.

A psychiatric emergency is any condition that must be immediately treated to prevent serious injury to the person or others.

See BEM 100, Policy Exception Request Procedure.

This Administrative Law Judge finds that the claimant is a potential LVAD/heart transplant candidate at [REDACTED]. As a result, the claimant would require ongoing care and medication for the rest of her life. The claimant has a MA spend-down of [REDACTED] with a Social Security RSDI income of [REDACTED] per month. According to policy, a claimant whose countable assets exceed the asset limit is nevertheless asset eligible when an undue hardship exists, when the claimant's physician states that necessary medical care is not being provided and/or the claimant needs treatment for emergency conditions. A medical emergency is any

condition for which a delay in treatment may result in the person's death or permanent impairment of the person's health.

Therefore, this Administrative Law Judge finds that even though the department was acting in compliance with department policy by determining that the claimant had a MA deductible of [REDACTED] per month, the claimant should be eligible for MA as a result of undue hardship based on her health condition and pending heart transplant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that even though the department appropriately determined the claimant's eligibility for MA, that the claimant should be approved for MA as a result of undue hardship.

Accordingly, the department's decision is **REVERSED**. The department is ordered to determine that the claimant is eligible for MA under undue hardship.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 5, 2010

Date Mailed: April 5, 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.

2010-10917/CGF

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.

CGF/vmc

cc:

