

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: 2010-11983
Issue No: 2019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 9, 2010
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's guardian's request for a hearing. After due notice, a telephone hearing was held on March 9, 2010. Claimant was represented by her guardian, [REDACTED], Guardian/POA.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's request to waive the patient pay amount to allow funds to be used for a bed hold?

FINDINGS OF FACT

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

(1) At all relevant times during the substantive issue herein, claimant was a resident in a long-term care facility and receiving Medicaid.

(2) In late September/October, 2009, claimant was transferred from the [REDACTED] long term care facility to the [REDACTED] for an assessment. The nursing home required a payment of \$ [REDACTED] per day as a bed hold fee in order for claimant to be assured of a return to [REDACTED]. Claimant was gone for a total of 8 days, incurring a bed reservation fee of [REDACTED].

(3) Claimant's guardian/POA requested that the DHS allow for payment of this fee to come out of claimant's patient pay amount.

(4) The DHS post-eligibility patient pay amount policy does not allow for funds to be taken from the patient pay amount for a bed reservation fee.

(5) Claimant's guardian/POA does not take any guardianship/conservator expense as allowed under policy.

(6) Claimant's unearned income is [REDACTED], with health insurance premiums of [REDACTED] and a patient allowance of \$ [REDACTED] resulting in a patient pay amount of [REDACTED]. See Exhibit 4.

(7) On 9/23/09 the DHS issued a Notice of Case Action indicating that the patient pay amount will remain at [REDACTED]

(8) On 10/7/09 claimant's guardian/POA requested a hearing.

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).

Applicable policy to the case herein is found primarily in BEM Item 546-Post Eligibility Patient Pay Amounts. Relevant to the case herein, this policy states in pertinent part:

Use this item to determine post-eligibility patient-pay amounts (PPAs). A post-eligibility PPA is the L/H patient's share of their cost of LTC or hospital services. First determine MA eligibility. Then determine the post-eligibility PPA when MA eligibility exists for **L/H patients** eligible under:

- A Healthy Kids category.
- A FIP-related Group 2 category.
- An SSI-related Group 1 or 2 category *except*:
 - QDWI.
 - Only Medicare Savings Program (with **no** other MA coverage).

MA income eligibility and post-eligibility PPA determinations are **not** the same. Countable income and deductions from income often differ. Medical expenses, such as the cost of LTC, are never used to determine a post-eligibility PPA. Do **not** recalculate a PPA for the month of death.

The post-eligibility PPA is total income minus total need.

Total income is the client's countable unearned income plus his remaining earned income. See "Countable Income" below.

Total need is the sum of the following when allowed by later sections of this item:

- Patient Allowance.
- Community Spouse Income Allowance.
- Family Allowance.
- Children's Allowance.
- Health Insurance Premiums.
- Guardianship/Conservator Expenses.

BEM Item 546, pg. 1

There is no issue herein regarding claimant's countable income.

With regards to shelter expenses, evidently, claimant does not have any homestead to deduct under shelter expenses.

With regard to community spouse, claimant evidently does not have a community spouse to divert income.

As noted in the Findings of Facts, it appears that claimant's guardian/POA does not take any guardianship/conservator expenses as permitted under policy.

With regard to other allowances for a family allowance or children's allowances, there is no evidence that these are incurred by claimant.

As to claimant's health insurance premiums, these are deducted on her budget. See exhibit 4.

Policy allowing deductions on the budget must be specifically identified in BEM Item 546. There is no allocation for a patient bed reservation. As such, the department has no authority to divert the patient pay amount or decrease it in order for claimant to make a payment toward a bed reservation.

The purview of an administrative law judge is to review the department's actions and to make a determination if those actions are correct under policy and procedure. This Administrative Law Judge has reviewed BEM Item 546 as it applies to the facts herein, and finds that the department correctly denied claimant's request to use or decrease the patient pay amount for a bed reservation. As such, this Administrative Law Judge must uphold the department's actions.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's denial was correct.

Accordingly, the department's calculation and denial to decrease the patient payment amount to allow for monies to be used for a bed reservation was correct and is therefore upheld.

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

Date Signed: April 28, 2010

Date Mailed: April 30, 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.

JS/lk

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