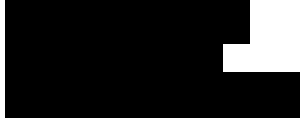


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201026966

Issue No: 2014

Case No:



Load No:

Hearing Date:

September 1, 2010

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on September 1, 2010.

ISSUE

Was the claimant's Medicaid deductible budget computed correctly?

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 is a MA recipient in Macomb County.
- (2) Claimant receives earned income in the amount of \$827.21 per month.
- (3) Claimant receives unearned income in the amount of \$71 per month.
- (4) There are two other checks that claimant receives monthly in the amount of \$71; however, these checks are income to other group members and cannot be counted as claimant's unearned income.

- (5) The MA budget showed eligibility for the claimant; however, this budget included a deductible of \$163.
- (6) Claimant requested a hearing on November 12, 2009, stating that she believed the deductible that she had been given was incorrect.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM) and Reference Tables (RFT).

With regard to the MA eligibility determination, the State of Michigan has set guidelines for income, which determine if an MA group is eligible. Claimant is not eligible for Group 1 Medicaid. Net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. BEM 105. For a household size of 1, this limit is \$903. RFT 242. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105. 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.

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. 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.

After a review of the Medicaid budget, the Administrative Law Judge has found errors; therefore, the budget must be recalculated in light of these errors.

Claimant's earned income was calculated to be \$827.21, when taking into account claimant's monthly income of \$516 for hairdressing work, and claimant's monthly income of \$311.21 as a chore provider. Claimant also receives income of \$71 from the Social Security Administration. However, claimant receives two other checks for \$71 each month as well; these checks are addressed to her children with the claimant as a representative payee. After a review of the deductible budget, it appears that these checks were included in claimant's net income; this is incorrect.

Unearned income is income to the recipient, and only the recipient. It is not income to the representative payee. BEM 500 specifically states that this income is not income to a parent, but income to the child. When calculating unearned income, BEM 536 states that the Department is to "determine the fiscal group member's other

countable unearned income". BEM 536 does not state to determine the fiscal group's other countable unearned income, but rather, the fiscal group **member's** countable unearned income. Therefore, the Department was in error when it counted claimant's children's SSA checks as claimant's countable unearned income—while it may be income to the entire group, it is not income to the group member in question and cannot be included as such.

After counting claimant's earned income of \$827.11, applying an earned income deduction of \$90, and adding claimant's unearned income of \$71, the undersigned determines that claimant had a total net income of \$808.21. Dividing this amount by 4.9 for the claimant's prorated share gives us a prorated income of \$164, not \$197 as originally calculated. Multiplying this amount by 2.9 shares gives claimant a total net income of \$478, not \$571 as originally calculated. Thus, after subtracting the income limit of \$408, the undersigned determines that claimant should have been given a deductible of \$70, not \$163.

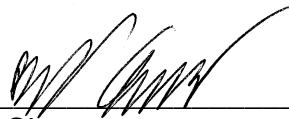
Therefore, as there are clear errors in the Department's calculations, the Medicaid deductible budget must be recalculated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to impose an MA deductible of \$163 was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to recalculate claimant's Medicaid deductible budget, in light of the errors outlined in the conclusions of law. The Department is FURTHER ORDERED to pay all Medicaid eligible bills for every month claimant was eligible for Medicaid benefits.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/09/10

Date Mailed: 09/13/10

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.

RJC/dj

cc:

