

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: 2010-27251
Issue No: 2026
Case No: [REDACTED]
Load No: 7 [REDACTED]
Hearing Date:
June 1, 2010
Roscommon County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 June 1, 2010. Claimant and his wife personally appeared and testified.

ISSUE

Did the department properly determine in 2009 that claimant's Medicaid (MA) case must be placed in deductible status with a [REDACTED] monthly deductible amount?

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 times relevant, claimant had an ongoing MA deductible case in

[REDACTED].

(2) Claimant's MA case was scheduled for a mandatory review in August 2009.

(3) At review, the department verified claimant's and his wife's unearned monthly [REDACTED] incomes.

(4) At that time, claimant was receiving [REDACTED] per month in [REDACTED] [REDACTED] and his wife was receiving [REDACTED] per month in [REDACTED] [REDACTED] (Department Exhibit #2).

(5) Additionally, claimant was receiving [REDACTED] per month in [REDACTED] n income (Department Exhibit #1, pgs 2 and 3).

(6) The department added all of this income together and correctly concluded the household took in [REDACTED] per month in gross income (Department Exhibit #1, pg 4).

(7) After the department deducted the mandatory [REDACTED] disregard from the household's gross amount as required in every deductible case, and also, further reduced that amount by [REDACTED] for claimant's monthly MA premium expense, [REDACTED] of countable net income remained for purposes of determining the household's updated monthly deductible amount (Department Exhibit #1, pg 4).

(8) The department also considered the [REDACTED] Protected Income Level established by policy for a two person household at RFT 240, pg 1.

(9) When the department subtracted claimant's Protected Income Level (i.e., [REDACTED] from the household's countable net income (i.e., [REDACTED]), a [REDACTED] monthly deductible resulted ([REDACTED]) (Department Exhibit #1, pg 4).

(10) When the department notified claimant of his increased monthly deductible amount he filed a hearing request dated August 20, 2009.

(11) Claimant's wife stated at hearing any monthly deductible allowance would be too high to the point where they likely will have to resort to filing bankruptcy in the near future.

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).

In order to qualify for Group 2 MA coverage, medically needy persons like claimant and his wife must have income which is equal to or less than the Protected Income Level. This dollar figure is a set amount for all non-medical needs such as food, shelter and incidental expenses. If the household's income exceeds the Protected Income Level, the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as an MA deductible case. When recipients reside with spouses in Group 2 MA cases, all household earned and unearned income by both spouses is required to be counted when determining their monthly MA deductible amount, per PEM Item 211, the department's MA Group Composition rules.

Specifically, the department's policy relating to countable MA income in deductible cases states as follows:

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount. PEM, Item 500, p. 1.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

RETIREMENT INCOME – OTHER

All Programs

Refer to the specific sections in this item for policies regarding:

- . Railroad Retirement Board benefits
- . Retirement, Survivors and Disability Insurance (RSDI)
- . U.S. Civil Service and Federal Employee Retirement System

Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions.

Count the gross benefit as unearned income. PEM, Item 500, p. 29.

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

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.

Redetermination

You must redetermine eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. PEM, Item 545, p. 9.

PROCESSING CHANGES

The group must report changes in circumstances within 10 days. Review the group's eligibility when a change that may affect eligibility is reported. PEM, Item 545, p. 10.

Expenses Reported After Coverage Authorized

Do not alter the MA eligibility begin date if you have already authorized coverage on CIMS. However, any expenses the group reports that were incurred from the first of such a month, through the day before the MA eligibility begin date might be countable as old bills. PEM, Item 545, p. 10.

EXHIBIT I - MEDICAL EXPENSES

A **medical expense** must be incurred for a medical service listed below. Except for some transportation, the actual charge(s) minus liable third party resource payments counts as an allowable expense. However, not all sources of payment are considered liable third party resources. See "**THIRD PARTY RESOURCES, EXHIBIT 1A.**"

Note: A charge cannot be incurred until the service is provided. PEM, Item 545, p. 12.

Count allowable expenses incurred during the month you are determining eligibility for, whether paid or unpaid. You may also count certain **unpaid** expenses from prior months that have not been used to establish MA eligibility. See "**OLD BILLS, EXHIBIT 1B**". PEM, Item 545, p. 13.

Medical Services

Medical services include the following:

- . Cost of a Diabetes Patient Education program
- . Service animal (e.g., guide dog) or service animal maintenance
- . Personal care services in home, AFC, or HA (See “**EXHIBIT 1D**”)
- . Transportation *for any medical reason

PEM, Item 545, p. 13.

- . Medical service(s) provided by any of the following:
 - .. Anesthetist. PEM, Item 545, p. 13.
 - .. Clubhouse psychosocial rehabilitation programs
 - .. Chiropractor. PEM, Item 545, p. 13.
- .. Christian Science practitioner nurse or sanatorium. PEM, Item 545, p. 13.
- .. Certified nurse-midwife. PEM, Item 545, p. 13.
- .. Dentist. PEM, Item 545, p. 13.
- .. Family planning clinic. PEM, Item 545, p. 13.
- .. Hearing aid dealer. PEM, Item 545, p. 13.
- .. Hearing and speech center. PEM, Item 545, p. 13.
- .. Home health agency. PEM, Item 545, p. 13.
- .. Hospice. (See “EXHIBIT III”). PEM, Item 545, p. 13.
- .. Hospital. (See “EXHIBIT IC”). PEM, Item 545, p. 13.
- .. Laboratory. PEM, Item 545, p. 13.
- .. Long-term care facility. (See “EXHIBIT IC”). PEM, Item 545, p. 13.
- .. Maternal support services provider. PEM, Item 545, p. 13.
- .. Medical clinic. PEM, Item 545, p. 13.

- .. Medical supplier**. PEM, Item 545, p. 13.
- .. Mental health clinic. PEM, Item 545, p. 13.
- .. Nurse. PEM, Item 545, p. 13.
- .. Occupational therapist. PEM, Item 545, p. 13.
- .. Ophthalmologist. PEM, Item 545, p. 13.
- .. Optometrist. PEM, Item 545, p. 13.
- .. Oral surgeon. PEM, Item 545, p. 13.
- .. Orthodontist. PEM, Item 545, p. 13.
- .. Pharmacist***. PEM, Item 545, p. 13.
- .. Physical therapist. PEM, Item 545, p. 13.
- .. Physician (M.D. or D.O.). PEM, Item 545, p. 13.
- .. Podiatrist. PEM, Item 545, p. 13.
- .. Psychiatric hospital. PEM, Item 545, p. 13.
- .. Psychiatrist. PEM, Item 545, p. 13.
- .. Psychologist. PEM, Item 545, p. 13.
- .. Radiologist. PEM, Item 545, p. 13.
- .. Speech therapist. PEM, Item 545, p. 13.

- .. Substance abuse treatment services provider. PEM, Item 545, p. 13.

- .. Visiting nurse. PEM, Item 545, p. 14.

* Includes ambulance at actual cost and other transportation for medical services at the rates in PAM 825. Includes clients driving themselves for episodic and pharmacy trips at the rate they are paid in PAM 825 for chronic ongoing trips. PEM, Item 545, p. 14.

** Includes purchase, repair and rental of supplies, such as:

- . Prosthetic devices
- . Orthopedic shoes
- . Wheelchairs
- . Walkers
- . Crutches
- . Equipment to administer oxygen
- . Personal response system (e.g., Lifeline Emergency Services)

PEM, Item 545, p. 14.

*** Includes:

- . Legend drugs (i.e., only obtained by prescription)
- . Aspirin, ibuprofen and acetaminophen drug products
 - .. prescribed by a doctor, and
 - .. dispensed by a pharmacy
- . Non-legend drugs and supplies, such as:
 - .. Insulin
 - .. Needles
 - .. Syringes
 - .. Drugs for the treatment of renal (kidney) diseases
 - .. Family planning drugs and supplies
 - .. Ostomy supplies
 - .. Oxygen
 - .. Surgical supplies
 - .. Nicotine patches and gum
 - .. Incontinence supplies

PEM, Item 545, p. 14.

It does not include medicine chest and first aid supplies, such as:

- . Band-Aids
- . Alcohol
- . Cotton swabs
- . Nonprescription cold remedies
- . Ointments
- . Thermometers

PEM, Item 545, p. 14.

The inclusion of claimant's and his wife's monthly [REDACTED] benefits and his [REDACTED] income is required to be considered in MA budgeting. PEM Item 500. Unfortunately, the imposition of a deductible restriction is inevitable in claimant's case as long as this income continues. Additionally, this Administrative Law Judge has reviewed the department's budgeting process and she finds all calculations were properly made at all times during this disputed period. Consequently, the department's MA deductible restriction must be upheld because it is in complete compliance with the department's policies, and with the governing laws and regulations on which those policies are based.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined in 2009 that claimant's case must be placed in deductible status with a correctly calculated monthly deductible amount based on the income verifications provided.

Accordingly, the department's actions are AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 25, 2010

Date Mailed: August 26, 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.

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