

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

IN THE MATTER OF:



Reg. No.: 201034016  
Issue No.: 2026; 3002  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: July 21, 2010  
Oakland County DHS

**ADMINISTRATIVE LAW JUDGE:** Jeanne VanderHeide

**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 hearing. After due notice, an telephone hearing was conducted from Detroit, Michigan on July 21, 2010. The Claimant did not appear but she was represented by [REDACTED] at the hearing. [REDACTED], FIM, appeared on behalf of the Department.

**ISSUE**

1. Whether the Department properly determined the Claimant's Medical Assistance ("MA") deductible amount effective 1/30/10?
2. Whether there are extenuating circumstances which would allow Claimant to meet the requirement for regular Medicaid benefits without spend down requirements?
3. Whether the Department properly determined the Claimant's Food Assistance Program ("FAP") benefits effective 1/30/10?

**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 was/is an active MA and FAP recipient.
2. Claimant's FAP and MA budgets were reviewed in December of 2009. (Exhibit p. 50).

3. An MA budget was completed which determined Claimant to be entitled to MA after meeting a deductible of \$880.00 per month effective 1/30/10. (Exhibit 1, p. 20).
4. A FAP budget was completed which determined Claimant to be entitled to FAP benefits of \$16.00 per month effective 1/30/10. (Exhibit 1, p. 23).
5. At some point, after verification was provided, 3 months of medical expenses were included in the FAP budget and Claimant's FAP benefit was raised to \$61.00 per month.
6. The Department and Claimant's representative agree that the MA and FAP budgets were correctly done and utilized the proper amount of income for the household.
7. The Claimant's representative asserted that Claimant and her husband are not physically and/or mentally capable of collecting and submitting expense receipts in order to establish a deductible on a monthly basis. Therefore, Claimant's representative argued extenuating circumstances should circumvent the deductible requirement.
8. On April 23, 2010, Claimant requested a hearing contesting the department's determination that Claimant is required to pay a deductible and the amount of the deductible based on extenuating circumstances.

### **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, formally known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq* and MCL 400.105. The Food Assistance Program, formerly known as the Food Stamp ("FS") program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department of Human Services ("DHS"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Department policies are found in the Program/Bridges Administrative Manual ("PAM/BAM"), the Program/Bridges Eligibility Manual ("PEM/BEM"), and the Reference Tables ("RFT").

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. PEM/BEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or

disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP related categories. *Id.*

There are various SSI related categories under which one can qualify for MA benefits. PEM/BEM 150-174. The MA regulations also divide MA recipients into Group 1 and Group 2 which relate to financial eligibility factors. Financial eligibility for Group 1 exists when countable income minus allowable expenses equals or is below certain income limits. PEM/BEM 105, p. 1. The income limits vary by category and are for non-medical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for FIP and SSI related Group 1 categories. *Id.* 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. *Id.*

To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual's protected income level (PPI) must be determined. The PPI is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM/BEM 544. If a fiscal group has net income that is the same or less than the PPI, RFT 240, then it will qualify for MA. If the net income is over the PPI, then the fiscal group may become eligible for assistance under the deductible program. A deductible 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/BEM 545; 42 CRF 435.831. **If old bills equal or exceed a group's excess income, the group may delay having a deductible and MA may be authorized for up to six months. BEM 545, p. 8.**

The following must be verified before using an allowable medical expense to determine eligibility for a month:

- Date expense incurred.
- Amount of expense.
- Current liability for an old bill.
- Receipt of personal care services provided in an adult foster care home or home for the aged

BEM 545, p. 28. A medical expense must be incurred to be counted in the deductible amount. BEM 545, p. 13. Clients with excess income who are receiving personal care

Home Help Services in their home may be eligible for ongoing MA coverage. BEM 545, p. 19.

In the present case, Claimant is not claiming that the Department misapplied the budgets or improperly determined the amount of her MA deductible. Claimant is asking for an exception to the MA deductible policy. Nor does Claimant have any issue with the amount of FAP benefits as recalculated with medical expenses. The Administrative Law Judge has personally reviewed applicable policy and does not find any hardship exception to the MA deductible program or policy requirements. Accordingly, the undersigned finds that the Department has acted in accordance with department policy and law in setting a deductible.

Given Claimant's lack of help in the home and significant physical and mental issues, however, the Department should be looking at whether Claimant's past bills would allow for the deductible to be delayed and MA to be activated up to six months in the future based on the old bills per BEM 545. In addition, Claimant's case should be reviewed by Adult Protective Services to determine if Claimant is receiving the appropriate help within the home. If Claimant needs personal care Home Help Services in the home, she may be eligible for ongoing MA coverage.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED in part and REVERSED in part.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with department policy when it calculated the Claimant's MA and FAP benefits effective 1/30/10. However, the Department needs to review Claimant's past medical bills to determine if the MA deductible can be delayed and MA activated for the future.

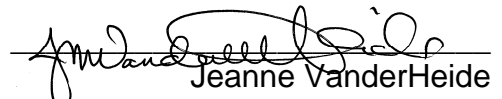
Accordingly, it is Ordered:

1. The Department's determination of Claimant's MA deductible effective 1/30/10 is AFFIRMED.
2. The Department shall reprocess Claimant's old medical bills from January, 2010 forward to determine whether the old bills support a delay in deductible. If so, the Department will activate MA up to six months into the future.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.

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Further, a referral is to be made to Adult Protective Services to consider home care assistance needs, including but not limited to personal care services in the home, on behalf of the Claimant; and other actions as necessary.

/s/

  
Jeanne VanderHeide  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: July 23, 2010

Date Mailed: July 23, 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.

JV/hw

cc:

