

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

IN THE MATTER:

[REDACTED]

Reg No. 201053367
Issue No. 2014
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 6, 2010
Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon request for a hearing. After due notice, telephone hearing was held on October 6, 2010.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. On or about May 29, 2009, the department prepared an MA budget. Claimant's total countable MA income was [REDACTED] consisting of claimant's [REDACTED] benefits and [REDACTED] payment. A standard [REDACTED] deduction was taken leaving countable income of [REDACTED]. Claimant had excess income to qualify for ALMB. Department Exhibit A, pages 2-11.
2. May 29, 2009, the department issued a written notice that claimant's ALMB would terminate due to excess income. Department A, pages 6-8

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) 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 Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers:

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2.

This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

- Qualified Medicare Beneficiaries

This is also called full-coverage QMB and just QMB. Program group type is QMB.

- Specified Low-Income Medicare Beneficiaries

This is also called limited-coverage QMB and SLMB. Program group type is SLMB.

- Q1 Additional Low-Income Medicare Beneficiaries

This is also referred to as ALMB and as just Q1. Program group type is ALMB.

To qualify for ALMB. Income exceeds 120% of the poverty limit but not exceed 135% of the poverty limit.

Bridges Eligibility Manual (BEM) 165;

This item applies to SSI-related MA for adults. Adult means a person who is married or age 18 or over.

Deduct court-ordered child support paid by an initial person's spouse to a child who does not live with the fiscal group.

Blind work expenses are costs which are reasonably attributable to a blind person earning income.

Impairment-related work expenses are the cost of certain impairment-related services and items that a disabled person needs in order to work.

Subtract allowable work expenses paid by a blind or disabled person from his own countable earned income

Allocate parents' and stepparents' income to meet the needs of their non-SSI-related child(ren) living with them.

Subtract \$20 from the fiscal group's remaining unearned income. Subtract \$20 from the fiscal group's remaining earnings if there is no remaining unearned income.

Disregard \$65 plus 1/2 of the fiscal group's remaining earnings. Use RFT 295 to determine this amount.

Deduct \$60 for court-appointed guardian and/or conservator expenses paid by a fiscal group member from the remaining combined income of the fiscal group.

Verification of the expense is required.

BRIDGES ELIGIBILITY MANUAL (BEM) 541;

Social Security Act, Section 1902(a)(10)
42 CFR 435.831(a)(2)
MCL 400.106

Social Security Act sections:

1902(a)(10)(E)(i) for QMB.
1902(a)(10)(E)(iii) for SLMB.
1902(a)(10)(E)(iv) for ALMB.
1902(r)(2).
1905(a) for retro MA.
1933 for ALMB funding.

The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses.

Count as a need item the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the **medical group**.

Do **not** include premiums paid by the employer or any other non-medical group source.

Include Medicare premiums paid by the medical group that may later be reimbursed by the Buy-In program.

Convert premiums paid other than monthly to a monthly cost.

Remedial services produce the maximum:

Reduction of physical and mental limitations, and
Restoration of an individual to his best possible functional level.
Remedial services do not include personal care services.

At a minimum, remedial services include basic self-care and rehabilitation training which teach and reinforce the following skills:

- Dressing.
- Grooming.
- Eating.
- Bathing.
- Toileting.
- Following simple instructions.

Bridges Eligibility Manual (BEM) 544; 42 CFR 435.811, .814, .831(c)(i), .1007
MCL 400.106, .107.

Income eligibility for Medicaid exists for the calendar month tested when:

There is no excess income.

Allowable medical expenses equal or exceed the excess income.

Bridges Eligibility Manual (BEM) 545;
42 CFR 435.831(b)-(d)
MCL 400.106,.107

In this case, the department determined claimant to have excess income to qualify for Medical Savings Program, ALMB. Finding of Fact 1. At hearing, claimant credibly testified that she has increased shelter expenses and other costs that are related to her medical conditions and are prescribed by her physician. Claimant credibly asserted that these are medically necessary expenses. She believes that as medically necessary expenses, they should be included when determining her eligibility for Medical Assistance. This view is not consistent with department policy which does not allow for such expenses to be included. The department credibly testified that a policy exception was requested but not granted. Accordingly, the department completed claimant's budget in compliance with department policy and its action must be upheld. Finding of Fact 1-2. BEM 544, 545.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy Accordingly, the department's action is **HEREBY UPHELD.**

/s/

Jana A. Bachman
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 10, 2010

Date Mailed: December 13, 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 receipt 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.

JAB/db

cc:

