

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: 20107767
Issue No: 5006; 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 24, 2010
Wayne 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 March 24, 2010.

ISSUE

Was the claimant's application for SER funds properly denied?

Was the claimant's Medicaid deductible properly calculated?

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 applied for SER energy funds on October 6, 2009.
- (2) Claimant's application was denied because claimant failed to make a co-payment of \$503.16.
- (3) Claimant's total electrical obligation at the time of the emergency was \$1053.16.

- (4) The fiscal year cap for non-heat electrical at the time of the application was \$550.
- (5) Claimant did not make a SER copayment.
- (6) There were at least two other SER applications filed around the same general time; the case at hand only concerns the application filed in October 2009 and the SER decision notice filed on December 7, 2009.
- (7) Claimant was also receiving MA with a deductible of \$711.
- (8) Claimant contested the amount of this deductible.
- (9) On November 13, 2009, claimant requested a hearing on the matter, contesting the SER denial and co-pay requirements, and also the amount of the MA deductible.
- (10) At the time of the hearing request, claimant's SER application had not been processed but was processed prior to the hearing.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (ERM).

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).

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. Other persons or organizations can also contribute funds on behalf of the SER group. Verification that the contribution has been paid must be received before any SER payment can be made. ERM 208.

The yearly fiscal cap for SER payments for energy services is \$550. ERM 301. This means that the claimant is responsible for any amount unpaid above the \$550 limit. The claimant contribution must be paid before the Department pays the SER payment.

In the current case, claimant's unpaid non-heat electricity bill was \$1053.16. The Department's yearly maximum SER payment for non-heat electricity was \$550. This left an amount of \$503.16 that the claimant was responsible to pay before any SER payment could be made. It is uncontested that claimant did not make an SER co-payment in the present case. Therefore, the Department was correct when it did not make the SER payment.

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 MA group 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. The protected income level 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. BEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in RFT 240. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. 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. PEM 545; 42 CFR 435.831.

The MA budget included claimant’s RSDI benefits. The Administrative Law Judge has reviewed this budget and found no errors. Claimant herself was unable to point out specifically what parts of the budget she felt were in error. An unearned income total of \$1203 results in a modified net income of \$1183, after considering the calculated prorated shares of the household income. Therefore, claimant only becomes eligible for Group 2 MA when the excess income, budgeted here to be \$711, is spent. This amount was calculated after considering claimant’s allowed protected needs level of \$375 and claimant’s Medicare premiums. The undersigned cannot point to any errors, and must conclude that the Department’s calculations were correct.

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 refuse payment of claimant's SER funds for failure to pay a co-payment was correct. The Department's decision to institute a \$711 MA deductible was also correct.

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



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

Date Signed: 07/02/10

Date Mailed: 07/08/10

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:

