

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

IN THE MATTER OF:



Reg. No.: 2011-1394
Issue No.: 2019
Case No.: [REDACTED]
Hearing Date: January 12, 2011
DHS County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on January 13, 2011. Claimant did not appear, and [REDACTED], Claimant's Authorized Representative, appeared and testified on behalf of Claimant. [REDACTED], and [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly calculated Claimant's Medical Assistance (MA or Medicaid) Patient Pay Amount (spend-down or deductible)?

FINDINGS OF FACT

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

1. Beginning October 1, 2009, as a part of Claimant's MA benefits, DHS required Claimant to pay a monthly Patient Pay Amount, or deductible, of \$634.
2. DHS arrived at this amount based on Claimant's monthly Social Security benefit income of \$1,029.
3. On September 22, 2010, Claimant filed a request for a hearing with DHS.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

In this case, Claimant testified that the deductible is "not incorrect *per se*," but that it is so high that Claimant cannot pay for necessary home nursing care. DHS has cited as authority for its action BEM 500, "Income Overview." This section states that there are four types of income counted for purposes of DHS calculations: earned income, unearned income, income from self-employment, and income from room and board rental. BEM 500 also lists eight exceptions to what is income. They are: asset conversions, inconsequential income, in-kind benefits, loans, plans to achieve self-support, reimbursements, replacement money, and third-party assistance. BEM 500.

Based on BEM 500 and also on the inclusion of Social Security benefits as unearned income in BEM 503, "Income, Unearned," I find and conclude that DHS correctly assessed Claimant's income for purposes of determining her MA deductible. Next, I will consider whether DHS applied the correct formula for calculating the amount of the deductible requirement.

I have reviewed all of the evidence and testimony in this case in its entirety. DHS presented its budgeting calculations in its Exhibit 1. First, DHS gave Claimant a \$20 unearned income standard deduction from her income. This deduction, which in effect reduces the amount of Claimant's countable income, is set forth and authorized in BEM 541, "MA Income Deductions – SSI-Related Adults," p. 3. I find and conclude that DHS properly included this deduction in calculating Claimant's countable income in this case.

Next I look to see if DHS established Claimant's Protected Income Limit properly. This amount will also be deducted from Claimant's countable income, resulting in a lower countable income for deductible purposes. The protected income level, or limit, is defined in BEM 544, "MA Needs – Group 2," as a "set allowance for non-medical need items such as shelter, food and incidental expenses." This manual Item also indicates

that the protected income level amounts can be found by referring to two charts in the RFT: RFT 200, "MA Shelter Areas," and RFT 240, "MA Monthly Protected Income Levels." BEM 544, p. 1.

I have reviewed RFT 200 and RFT 240 to determine if DHS used this information correctly, and I find and conclude that they have done so. I find and conclude that DHS is correct in determining that Claimant is in Shelter Area IV, which includes Wayne County, Claimant's county of residence. I find and conclude that DHS is correct in determining that for a benefit group of one person in Shelter Area IV, the protected income level is \$375. RFT 200; RFT 240.

Next, I see from the Income Budget Results Exhibit that \$375 was subtracted from Claimant's income, leaving her with a countable, or spendable, amount of income money. That amount is properly calculated by DHS as \$634. According to DHS' formula, that \$634 is deemed available to be used for Claimant's medical expenses

I see no errors in DHS' calculations in this case and, in fact, Claimant's Authorized Representative testified DHS was "not incorrect *per se*." Claimant's Representative then stated that the deductible was so high that Claimant could not afford to have home nursing care for herself and such care was needed in Claimant's circumstances.

While I sympathize wholly with Claimant's situation, as an Administrative Law Judge I am not in a position to change DHS policies and procedures to fit a given situation. The role of the Administrative Law Judge is to see that the laws are applied fairly and impartially, and not to make individual determinations of need outside of the structure of DHS policies and procedures.

In conclusion, considering all of the above information, I find and determine that DHS acted correctly in this case in determining that Claimant has countable, or spendable, income of \$634 with which to pay a MA deductible. DHS is AFFIRMED in this case. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the action taken by DHS in calculating the amount of Claimant's MA deductible. IT IS HEREBY ORDERED that DHS need take no further action in this case.

IT IS SO ORDERED.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 18, 2011

Date Mailed: January 20, 2011

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.

JL/pf

cc:

