

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

IN THE MATTER OF:

[REDACTED]

Reg. Issue
Case
Hearing

No. 2011-22081
No. 2026
No. [REDACTED]
Date: [REDACTED]

Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on [REDACTED]. The Claimant personally appeared and testified. The Claimant's spouse, [REDACTED] also appeared and testified. [REDACTED] ES and [REDACTED] Assistance Payments Supervisor appeared and testified on behalf of the Department.

ISSUE

Did the Department properly compute the Claimant's Medical Assistance (MA) deductible?

Does the Administrative Law Judge have jurisdiction to hear matters involving the disenrollment of the Claimant from the Medical Assistance Waiver Program.

FINDINGS OF FACT

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

1. The claimant was receiving Medicaid disability and was placed in a waiver program administered by the Department of Community Health so that he could receive home services to assist him and keep him from being placed in a nursing home.
2. The Claimant is now [REDACTED] years of age and receives social security in the amount of [REDACTED]
3. The Claimant also pays a Medicaid Part B premium of [REDACTED] Exhibit 4.
4. The Claimant was disenrolled in the MI Waiver Program for the Disabled and Elderly (Waiver Program) on [REDACTED] by the Program agent (Senior Alliance.) . The Department of Human Services was notified of his disenrollment by the Waiver Program agent. Exhibit 1
5. The Waiver Program Agent (Senior Alliance) is not part of the Department of Human Services (DHS) and operates independently of DHS.
6. The Department of Community Health is a separate Agency of the State of Michigan and administers the Waiver Program and its agents.
7. The Department issued a Notice of Case Action on [REDACTED] placing the Claimant in the Medicaid deductible program and determined that the Claimant's deductible was [REDACTED]. Exhibit 2
8. The Medicaid spend down budget prepared by the Department is incorrect as it includes two Medicaid Part B insurance premiums and should only include the Claimant's premium. Exhibit 3
9. The Medicaid spend down budget prepared by the Department is incorrect, as it used the wrong protected income level of [REDACTED] which is the PPL for a group of two.

10. The Claimant's wife is still eligible for the waiver program.
11. The claimant requested a hearing on [REDACTED] protesting the amount of the Medicaid spend down as calculated by the Department. The Claimant also sought review of the disenrollment by the waiver program agent. The Department received the hearing request on [REDACTED].

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 (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the Claimant questions the Department's calculation of his Medical Assistance (MA) deductible. The undersigned has reviewed the MA budget and found it to be incorrect for two reasons. In the first instance, the Department erred when it deducted both the Claimant's and his spouse's Medicaid Part B premiums. The Department should have only deducted the Claimant's premium of [REDACTED] as the Claimant's spouse is still eligible for the Waiver program and is considered her own group of one person. BEM 106, Page 2 and BEM 211. This error requires the Department's determination to be reversed as the deductible amount is incorrect.

The second basis the Department's determination of the Claimant's deductible amount is incorrect is based on its use of the wrong protected income level. To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual's

protected income level (PPL) must be determined. The PPL is a set allowance which is set to cover 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. If the fiscal group has net income that is the same or less than the PPL, RFT 240, then it will qualify for MA. If the net income is over the PPL, as is the case involving the Claimant, then the fiscal group may become eligible for assistance under the deductible program.

The monthly protected income level for a Medical Assistance group of one living in Wayne County as of January 2011 is [REDACTED] per month. RFT 240, RFT 200. In this instance the Department utilized the wrong protected income level of [REDACTED] when calculating the Claimant's spend down amount. The [REDACTED] limit is the protected income limit for a group with two members. In this case the Claimant's wife was still in the waiver program and should not have been counted as a group member in determining the Claimant's protected income level. The correct protected income level for one person should have been utilized by the Department when calculating the Claimant's spend down amount. Based upon the foregoing facts and relevant law, it is found that the Department's determination of the claimant's medical assistance deductible spend down amount is incorrect and its determination of that amount is reversed.

Lastly, the Claimant sought review of his disenrollment from the MA Waiver Program covered in BEM 106.

Department Policy contained in BEM 106 provides that this waiver program is called the MI Choice Waiver Program. This waiver program provides home and community-based services for aged and disabled persons who, if they did not receive such services, would require care in a nursing home. BEM 106 page 1.

The Program is not administered by the Department of Human Services and the Department has no control over the disenrollment process determined by the program agents. It provides:

Waiver Administration

The Department of Community Health (DCH) administers the waiver through contracts with organized health care delivery systems. See "Exhibit I" in this item for a list of these waiver service agents. The agent's functions are described below.

The agent determines the waiver approval date and termination date. The agent is responsible for advising the appropriate local DHS office of these dates. BEM 106, Page 2.

Based upon the foregoing policy there is no jurisdiction to review the actions of the Agent who determined the Claimant should be disenrolled from the Waiver program.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department's determination by Notice of Case Action dated [REDACTED] finding a MA deductible in the amount of [REDACTED] is incorrect and is REVERSED.

The Claimant's hearing request, to the extent it seeks review of the Claimant's disenrollment from the MI Choice Waiver program, is dismissed for lack of jurisdiction to hear the Claimant's request.

Accordingly, it is ORDERED:

1. The Department shall recompute the Claimant's Medicaid deductible spend down budget and include only the Claimant as a group of one member in determining the monthly protected income level, and shall include only the Claimant's Medicaid Part B premium when computing the spend down amount.

- 2. The Claimant's hearing request regarding his disenrollment from the MI Choice Waiver Program is dismissed for lack of jurisdiction.



Administrative
for
Department

Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 04/21/11

Date Mailed: 04/26/11

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.

LMF/dj

cc: [Redacted]
Wayne County DHS (Dist #18) / DHS-1843



Administrative Hearings