STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:
[redacted]
By: [redacted]

Reg. No: 2011-23097
Issue No: 2019
Case No: [redacted]
Load No:
Hearing Date:
June 14, 2011
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 three-way telephone hearing was held on June 14, 2011, in Jackson. Claimant was unable to attend the hearing due to health issues. Claimant was represented by [redacted], power of attorney.

The department was represented by Bobbie Norman (Program Manager).

ISSUE

Did the department correctly calculate claimant's Patient Pay Amount (PPA) for April 2011?

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 is a resident of the [redacted] (LTC).

(2) On July 29, 2009, claimant appointed her spouse, [redacted] her power of attorney (POA).

(3) On January 13, 2011, a DHS-35 (Long-Term Care Medicaid Redetermination Notice) was sent to claimant.

(4) On January 27, 2011, a DHS-4574 (Medicaid application—patient and LTC notice) was submitted with the required verifications.

(5) On February 24, 2011, the caseworker reviewed claimant's case to determine ongoing MA-LTC eligibility.

(6) On February 24, 2011, the caseworker discovered that claimant's community spouse's property taxes were incorrectly computed. This means that claimant's prior Patient Pay Amount (PPA) was incorrect.

(7) The MA-LTC worker corrected the property tax error and recomputed claimant's PPA.

(8) On February 24, 2011, the caseworker sent claimant a DHS-1605 (Notice of Case Action) informing claimant that her new PPA would be $690 per month, effective April 1, 2011.

(9) On March 7, 2011, the caseworker sent claimant a DHS-1605, (Notice of Case Action) informing her that her new PPA would be $493, effective April 1, 2011.

(10) On March 7, 2011, the claimant's POA filed a hearing request. The hearing request did not meet the ten-day requirement.

(11) Claimant's PPA was computed as follows:

Claimant's RSDI income	$768
Less: Community Spouse income allowance	$214
Less: Claimant's incidental expense allowance	$ 61
New Patient Pay Amount	$493

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 (DHS or department) 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).

The Medicaid program provides medical insurance for low income persons. The department's Patient Pay Amount policy is found at BAM 105, 110, 115, 210, 220 and BEM 500, 546, and 545.

POST-ELIGIBILITY PATIENT PAY AMOUNTS

Department Policy

MA Only

Use this item to determine post-eligibility patient-pay amounts. A posteligibility patient-pay amount is the L/H patient's share of their cost of LTC or hospital services. First determine MA eligibility. Then determine the post-eligibility patient-pay amount when MA eligibility exists for **L/H patients** eligible under:

- A Healthy Kids category.
- A FIP-related Group 2 category.
- An SSI-related Group 1 or 2 category ***except:***

    •• QDWI.
    •• Only Medicare Savings Program (with **no** other MA coverage).

MA income eligibility and post-eligibility patient-pay amount determinations are **not** the same. Countable income and deductions from income often differ. Medical expenses, such as the cost of LTC, are never used to determine a post-eligibility patient-pay amount. Do **not** recalculate a patient-pay amount for the month of death.

PATIENT-PAY AMOUNT

The post-eligibility patient-pay amount is total income minus total need.

Total income is the client's countable unearned income plus his remaining earned income; see Countable Income in this item.

Total need is the sum of the following when allowed by later sections of this item:

- Patient allowance.
- Community spouse income allowance.

• Family allowance.
• Children's allowance.
• Health insurance premiums.
• Guardianship/conservator expenses.

COUNTABLE INCOME

For all persons in this item, determine countable income as follows:

• RSDI, Railroad Retirement and U.S. Civil Service and Federal Employee Retirement System.
• Non-SSI income for SSI recipients

Use countable income per BEM 500 and 530. Deduct Medicare premiums actually withheld by:

• Including the L/H patient's premium along with other health insurance premiums, and
• Subtracting the premium for others (example, the community spouse) from their unearned income.

Exception: Do **not** use the following special exclusion policies regarding RSDI. These policies only apply to eligibility, **not** post-eligibility patient-pay amounts.

•• BEM 155, 503 COUNTABLE RSDI.
•• BEM 156, COUNTABLE RSDI.
•• BEM 157, COUNTABLE RSDI.
•• BEM 158, COUNTABLE RSDI.

Note: The checks of clients on Buy-In increase about three months after buy-in is initiated. Recompute the patient-pay amount when the client's check actually changes. BAM 810 has information about buy-in.

• **Earned and Other Unearned Income.**

Use BEM 500 and 530. For clients, use FIP- or SSI-related policy as appropriate. Use SSI-related policies for all other persons.

For the **client only**, disregard $65 + 1/2 of his countable earned income. Use RFT 295 to determine the disregard.

Earned income minus the disregard is **remaining earned income**.

PATIENT ALLOWANCE

The patient allowance for clients who are in, or are expected to be in, LTC and/or a hospital the entire L/H month is:

• $60 if the month being tested is November 1999 or later, and
• $30 if the month being tested is before November 1999.

Exception: Use $90 for any month a patient's VA pension is reduced to $90 per month."

Use the appropriate protected income level for one from RFT 240 for clients who enter LTC and/or a hospital but are not expected to remain the entire L/H month. Reminder: The patient-pay amount is not reduced or eliminated in the month the person leaves the facility.

COMMUNITY SPOUSE INCOME ALLOWANCE

L/H patients can divert income to meet the needs of their community spouse. The **community spouse income allowance** is the maximum amount they can divert. However, L/H patients can choose to contribute less. Divert the **lower** of:

- The community spouse income allowance.
- The L/H patient's intended contribution; see Intent to Contribute in this item.

Compute the community spouse income allowance using steps one through three below.

1. Shelter Expenses

Allow shelter expenses for the couple's principal residence as long as the obligation to pay them exists in either the L/H patient's or community spouse's name.

Include expenses for that residence even when the community spouse is away (for example, in an adult foster care home). An adult foster care home or home for the aged is **not** considered a principal residence.

Shelter expenses are the total of the following monthly costs:

• Land contract or mortgage payment, including principal and interest.
• Home equity line of credit or second mortgage.
• Rent.
• Property taxes.
• Assessments.
• Homeowner's insurance.
• Renter's insurance.
•Maintenance charge for condominium or cooperative.

Also add the appropriate heat and utility allowance if there is an obligation to pay for heat and/or utilities. The heat and utility allowance for a month is:

• $529 starting January, 2008.
• $550 starting January, 2009.

Convert all expenses to a monthly amount for budgeting purposes.

2. Excess shelter allowance.

Subtract the appropriate shelter standard from the shelter expenses determined in step one. The shelter standard for a month is:

• $525, starting January, 2008.
• $547, starting July, 2009.

The result is the **excess shelter allowance**.

3. Total allowance.

Add the excess shelter allowance to the appropriate basic allowance.

The basic allowance for a month is:

• $1750, starting April 2008.
• $1822, starting July 2009.

The result, up to the appropriate maximum, is the **total allowance**.

The maximum allowance for a month is:

• $2610, starting January 2008.
• $2739, starting January 2009.

Exception: In hearings, Administrative Law Judges can **increase** the total allowance to divert more income to an L/H patient's community
spouse; see BAM 600.

BEM 546, pages 1 through 4.

Claimant has the burden of proof to show that she complied with all of the MA-LTC requirements in order to have her PPA continued at the lowest possible level.

The preponderance of the evidence shows that the department correctly computed claimant's Patient Pay Amount ($493) for April 2011.

It is clear from the evidence in the record that the department followed its policies and gave claimant the benefit of all the deductions to which she was entitled based on the verifications available to the caseworker at the time the budgets were computed.

The department has established, by the competent, material and substantial evidence on the record that it acted in compliance with department policy when it calculated claimant's April Patient Pay Amount at $493. Furthermore, claimant did not meet her burden of proof to show the department's decision to increase claimant's pay amount to $493 for April 2011 was reversible error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed claimant's April 2011 Patient Pay Amount at $493.

Therefore, the action taken by the department is, hereby, AFFIRMED.

SO ORDERED.

Jay W. Sexton

Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 17, 2011

Date Mailed: June 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 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.

JWS/tg

cc: [redacted]