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

IN THE MATTER OF:

[redacted]

Reg. No: 201132710
Issue No: 2019
Case No: [redacted]
Hearing Date: September 8, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 telephone hearing was held on September 8, 2011. The claimant personally appeared and provided testimony and was represented by her appointed representative, [redacted]

ISSUE

Did the department properly determine the claimant's Medical Assistance (MA) patient pay amount?

FINDINGS OF FACT

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

1. The claimant was a recipient of MA benefits.

2. The claimant's SSI Medicaid was set to end on April 30, 2011. (Department Hearing Summary).

3. The claimant submitted a long term care MA application on April 15, 2011. (Department Exhibit 6).

4. On April 21, 2011, the department sent the claimant a notice of case action (DHS 1605) informing the claimant that she would have a patient pay amount of [redacted]. (Department Exhibit 1).

5. The claimant submitted a hearing request on May 3, 2011, protesting her patient pay amount.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Program Reference Manual (PRM).

The MA program is also referred to as Medicaid. BEM 105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. For MA only, a client and the client's community spouse have the right to request a hearing on an initial asset assessment only if an application has actually been filed for the client. BAM 105. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. BEM 105.

For purposes of MA in general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 105. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. The income limit, which varies by category, is for nonmedical needs such as food and shelter. BEM 105. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. BEM 105. For Group 2, eligibility is possible even when net income exceeds the income limit. BEM 105. This is because

incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105.

In cases involving long term care, after eligibility is determined, the department will calculate the claimant's patient pay amount, the amount that the claimant will be required to contribute to their stay in the long term care facility. BEM 546. The patient pay amount is determined by subtracting the patient need amount from the patient's countable earned and unearned income. BEM 546. In calculating the patient's need amount, policy lists several factors that may be included in determining this amount. Policy states as follows:

> 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. BEM 546.

Morse specifically, policy further defines what may be used in each of the aboce-specified categories:

> **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.
>
> 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.
>
> **FAMILY ALLOWANCE**
>
> An L/H patient's income is diverted to meet the needs of certain family members. The amount diverted is called the family allowance.
> Family members must**:**
> • Live with the community spouse, and
> • Be either spouse's:
> •• Married and unmarried children under age 21.

•• Married and unmarried children age 21 and over if they are claimed as dependents on either spouse's federal tax return.
•• Siblings and parents if they are claimed as dependents on either spouse's federal tax return.
The basic allowance for each dependent is the monthly amount minus the dependent's countable income, divided by 3. The monthly amount is:
• $1750, starting April, 2008.
• $1822, starting July, 2009.
The family allowance is the sum of the dependents' basic allowances.

CHILDREN'SALLOWANCE
L/H patients without a community spouse can divert income to their unmarried children at home who:
• Are under age 18, and
• Do not receive FIP or SSI.
The amount diverted is called the children's allowance. It is the children's protected income level from RFT 240 minus their net income.
Net income is:
• 80 percent of countable earned income per RFT 295, plus
• Countable unearned income.

HEALTH INSURANCE PREMIUMS
Include as a need item the cost of any health insurance premiums (including vision and dental insurance) the L/H patient pays, regardless of who the coverage is for. This includes Medicare premiums that a client pays; see Bridges Glossary.

GUARDIANSHIP/ CONSERVATOR EXPENSES
Allow $60 per month when an L/H patient pays for his court-appointed guardian and/or conservator. Guardianship/conservator expenses must be verified and include:
• Basic fee.
• Mileage.
• Other costs of performing guardianship/conservator duties. BEM 546.

In the case at hand, the claimant's income amount was properly determined by the department at [redacted] for unearned income (see Department Exhibit 2). The department subtracted a patient allowance of [redacted] to arrive at a patient pay amount of [redacted]. The claimant argued that her child support payments should also be deducted from her unearned income in determining her patient pay amount. However, as shown above, department policy does not allow for child support payments to be deducted from income in determining the patient pay amount. Therefore, the department acted properly in accordance with policy in determining the claimant's patient pay amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly calculated the claimant's patient pay amount.

Accordingly, the department's actions are **AFFIRMED**. SO ORDERED.

/s/
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 20, 2011

Date Mailed: September 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 60 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.

CSS/cr

cc: [redacted]