

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received on August 18, 2011. After due notice, a telephone hearing was held on October 12, 2011. Claimant personally appeared and testified.

ISSUE

Did the department properly place Claimant's Medicaid (MA) case in deductible status with a \$412.00 monthly deductible 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. Claimant has been receiving (MA) at all times pertinent to this hearing. (Hearing Summary).
2. For MA eligible clients with income, the department must consider a Protected Income Level, which is a set amount. Federal regulations at 42 CFR [REDACTED] provide standards for income. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 240, which mandates a [REDACTED] MA Monthly Protected Income Level in Claimant's case. BEM 544.
3. Claimant submitted a hearing request on August 18, 2011, protesting the [REDACTED] Medicaid deductible. (Request for a Hearing).

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, Mich Admin Code, Rules 400.901-400.951. 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 Reference Tables Manual (RFT).

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. Medicaid is also known as Medical Assistance (MA).

The State of Michigan has set guidelines for income, which determine if a Medicaid group is eligible. 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.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. 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 Medicaid protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medicaid group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Reference Table (RFT). An individual or Medicaid group whose income is in excess of the monthly protected income level is ineligible to receive Medicaid. BEM 545.

However, a Medicaid 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 Medicaid, 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 Medicaid group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

In order to qualify for Group 2 MA coverage, a medically needy person like Claimant must have income which is equal to or less than the Protected Income Level. This dollar figure is a set amount for all non-medical needs, such as food, shelter and incidental expenses. If an individual's income exceeds the Protected Income Level, the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a "deductible" case. In Claimant's case, based on her social security income, a [REDACTED] deductible amount resulted.

The inclusion of Claimant's social security income into her MA budget is required by policy. BEM 500. Unfortunately for Claimant, the imposition of a deductible restriction is inevitable in this case.

Claimant testified that she requested the hearing because she believed the department was not submitting all her medical bills because some of her medical bills were not being paid. The process of a Medicaid deductible was explained to Claimant until she indicated that she understood the process and realized that the department only would pay the first [REDACTED] because that was her spend down amount. However, after Claimant testified that she understood what the process was, Claimant stated that it was not fair because she only receives a little over [REDACTED] a month in social security and she cannot afford a [REDACTED] deductible.

Claimant's grievance centers on dissatisfaction with the department's current policy. Claimant's opinion that it is not fair for her to have to pay almost half of her income as a deductible is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department correctly placed Claimant's MA case in deductible status with a \$412.00 monthly deductible amount.

Accordingly, the department's actions are AFFIRMED.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/14/11

Date Mailed: 10/14/11

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 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.

VLA/ds

■ [REDACTED]