

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 20117901
Issue No.: 2019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: February 7, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 February 7, 2011. Claimant's representative, [REDACTED], appeared and testified. Claimant's daughter, [REDACTED] also testified on behalf of Claimant. The Department of Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Was the Department correct in its determination of Claimant's Medical Assistance (MA) patient pay amount?

FINDINGS OF FACT

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

1. On September 18, 2010, the Department notified Claimant that Claimant's MA patient pay amount was \$728.00.
2. Claimant had unearned monthly income from RSDI and pension in the amount of \$2,733.00.
3. Claimant had health insurance premiums in the amount of \$119.50.
4. Claimant and Claimant's spouse had shelter expense of \$692.42.

5. Claimant's spouse had unearned monthly income from Social Security and pension in the amount of \$789.14.
6. On November 22, 2010, Claimant requested a hearing, objecting to the patient pay amount.

CONCLUSIONS OF LAW

The MA program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM), which includes the Reference Tables (RFT).

When MA eligibility exists, a patient pay amount is determined by deducting need from total income. Total need is the sum of the following: patient allowance of \$60.00, community spouse income allowance, family allowance, children's allowance, health insurance premiums and guardianship/conservator expenses. BEM 546, pages 1 and 2.

The community spouse income allowance is computed by adding shelter expenses such as mortgage payment, home equity line of credit or second mortgage, rent, property taxes, assessments homeowner's insurance, renter's insurance and maintenance charges for condominium or cooperative, to the heat and utility allowance of \$550.00, then subtracting the shelter standard of \$547.00. The excess shelter allowance is added to the basic allowance of \$1,822.00. The spouse's income is then subtracted from that figure. BEM 546, pages 3 and 4.

BEM 503, p. 1 instructs the Department to enter gross income amounts.

In the present case, Claimant's representative does not dispute the gross income figures used for the patient (\$2,733.00) and spouse (\$789.14). Claimant's representative did not dispute the amount of shelter expense of \$692.42, or the amount of health insurance premiums of \$119.50.

Based on the foregoing analysis, it is determined that the Department has acted in accordance with Department policy and law in calculating Claimant's patient pay amount.

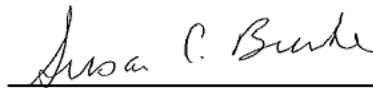
Claimant's representative stated at hearing that due to the Department not informing her of the patient pay amount for several months while the application was being processed, the patient pay amount accumulated with the nursing facility in which the Claimant resides. This Administrative Law Judge does sympathize with the claimant in

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this instance, but does not have the prerequisite jurisdiction to change or alter Department policy and State law at the present time.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department was correct in its determination of Claimant's MA patient pay amount, and it is, therefore, ORDERED that the Department's decision is AFFIRMED.



Susan C. Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 16, 2011

Date Mailed: February 16, 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.

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cc:

