

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2011-13544
Issue No.: 2026; 5026
Case No.: [REDACTED]
Hearing Date: June 15, 2011
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Susan Burke

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. After due notice, a telephone hearing was held on June 15, 2011. The Claimant was present and testified. [REDACTED] Claimant's Adult Care Provider, also testified on behalf of Claimant. The Department of Human Services (Department) was represented by [REDACTED] Assistance Payments Supervisor and [REDACTED] Assistance Payments Worker.

ISSUE

Was the Department correct in its decision to issue Claimant a partial SER payment?

Was the Department correct in its decision to disallow certain expenses to be applied to Claimant's MA deductible?

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 was an ongoing MA recipient with a deductible.
2. Claimant requested expenses to be applied to his MA deductible.
3. Claimant applied for SER for rent.
4. The Department agreed to pay \$534.00 toward Claimant's back due rent, and such agreement was memorialized in a Hearing Request Withdrawal, dated February 28, 2011.

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5. Claimant paid \$134.00 toward newly acquired legal fees to his landlord on March 3, 2011.
6. The Department paid \$400.00 toward Claimant's back due rent.
7. Claimant requested a hearing regarding the SER for rent and the allowable MA deductible expenses.

CONCLUSIONS OF LAW

STATE EMERGENCY RELIEF-RENT

The SER program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400-7049. Department policies are found in the State Emergency Relief Manual (ERM).

BAM 105, p. 1 dictates:

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

ERM 101 dictates that SER applicants must have an emergency which threatens health or safety and can be resolved through issuance of SER.

In the present case, the Department agreed to pay \$534.00 toward Claimant's back-due rent. Before the Department issued a check, Claimant made a payment toward legal fees to his landlord in the amount of \$134.00. The ledger of the Landlord at the time of the issuance of payment showed an amount owing of \$400.00. The Department therefore paid only \$400.00 toward back-due rent. The Department argues that Claimant's emergency was not only \$400.00. (ERM 101.) However, I am not convinced that the Department protected Claimant's rights, as dictated in BAM 105. Claimant was under the logical belief that the Department would pay \$534.00 toward Claimant's back-due rent, as the Department had agreed to do so. Furthermore, Claimant signed a Request for Withdrawal of Hearing based on the Department's agreement. That Claimant paid additional expenses to the Landlord after the agreement was made does not negate the Department's agreement to pay the full \$534.00. Therefore, the Department was not correct in its decision to make only a partial payment of the promised amount.

MEDICAL ASSISTANCE

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM), which includes Reference Tables (RFT).

A deductible process allows a client with excess income to be eligible for MA, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA 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.

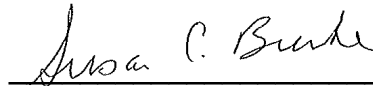
Allowable Medical Expenses are those listed in policy, e.g., BEM 545.

BAM 105, p. 1 instructs: The local office must protect client rights.

In the present case, Claimant argues that the Department was not allowing certain medical expenses. However, it was not clear from Claimant's testimony whether Claimant had already incurred those expenses and reported them to the Department, or whether Claimant anticipated medical expenses. Claimant is entitled to submit incurred allowable medical expenses to the Department and the Department in return must process the medical expenses according to policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was not correct in its decision to pay only \$400.00 in SER-rent, and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall issue an additional \$134.00 in SER-Rent to Claimant's Landlord of record on February 28, 2011. It is further ORDERED that Department shall assist Claimant in processing allowable medical expenses to apply toward Claimant's MA deductible.



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

Date Signed: 6/20/11

Date Mailed: 6/20/11

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.

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