

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-25760
Issue Nos.: 2019, 3019
Case No.: [REDACTED]
Hearing Date: May 11, 2011
DHS County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED]' request for a hearing. After due notice, a telephone hearing was held on May 11, 2011. Claimant did not appear. [REDACTED], appeared and testified on behalf of Claimant. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS calculated Claimant's Medical Assistance (MA or Medicaid) Patient Pay Amount (PPA or spend-down) in accordance with DHS policy and procedure?
2. Whether DHS terminated Claimant's Food Assistance Program (FAP) benefits in accordance with DHS policy and procedure?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, makes the following findings of fact:

1. In 2010, DHS provided Claimant with FAP and MA benefits.
2. On [REDACTED], Claimant was admitted to [REDACTED].
3. On February 23, 2011, DHS issued a Notice of Case Action terminating Claimant's FAP benefits and requiring Claimant to pay a PPA in order to continue receiving MA benefits.

4. These changes in Claimant's benefits were to become effective on April 1, 2011.
5. DHS calculated Claimant's PPA according to DHS policy and procedure.
6. On March 24, 2011, Claimant filed a hearing request notice with DHS.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

MA was established by Title XIX of the U.S. Social Security Act and is implemented in the Code of Federal Regulations Title 42. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in BAM, BEM and RFT. *Id.*

The DHS manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

First, regarding Claimant's FAP benefits, Claimant testified that she does not contest the termination of FAP benefits but merely wishes to "delay" the effective date from April 1, 2011, to another date. I interpret Claimant's request to mean that she is asking DHS to continue providing her with FAP benefits while she is in long-term care.

BEM 615, "Group Living Facilities," is the DHS policy that lists the benefit programs to which long-term care (LTC) individuals are entitled. BEM 615 specifically states that LTC individuals are not entitled to FAP, and they are entitled only to the State Disability Assistance allowance for incidental expenses. BEM 615, pp. 1, 3.

Based on this provision, I find and conclude that Claimant is not eligible for FAP benefits while she is in LTC, and DHS acted correctly in terminating her FAP benefits. I AFFIRM DHS' action as it is in accordance with DHS policy and procedure.

The second issue in this case is the PPA in the MA program. I have reviewed the formula DHS used to calculate Claimant's PPA and it is correct. Claimant is not

disputing the accuracy of the PPA amount, but seeks to “delay” the requirement. I interpret Claimant’s request to mean that she seeks to continue her MA benefits without a PPA requirement until a future date.

This situation is governed by BEM 546, “Post-Eligibility Patient Pay Amounts.” The policy stated in BEM 546 is as follows:

A post-eligibility PPA is the L/H [long-term care/hospital] patient’s share of their cost of LTC or hospital services. BEM 546, p. 1.

Based on this manual Item, I find and conclude that Claimant’s request must be denied, as it is clearly required by BEM 546 that the patient shall pay a portion of their expenses for LTC or hospitalization. BEM 546 makes no provision for an extension of time in which to pay the PPA. In this case, I have also reviewed the formula DHS used to make its calculations of Claimant’s PPA and I find that DHS acted correctly.

I understand that Claimant’s request for a delay is based on a possible change of residence from long-term care to the home of a family member. At the hearing, the Claimant was presented with a DHS Change Report form and the procedures for reporting a change of circumstances were reviewed. Claimant indicated she understood the purpose of the Change Report form.

In conclusion, based on the findings of fact and conclusions of law above, I conclude and determine that DHS acted correctly in this case and DHS is AFFIRMED. I find and conclude it is not necessary for DHS to take any further action in this case.

DECISION AND ORDER

Based on my findings of fact and conclusions of law above, I find and determine that DHS is AFFIRMED in this case. IT IS ORDERED that DHS need take no further action in this case.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 16, 2011

2011-25760/JL

Date Mailed: May 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.

JL/pf

cc:

