

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] CLE
[REDACTED]

Reg. No.: 2011-3688
Issue No.: 2019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: January 20, 2011
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 January 20, 2011. The claimant appeared and testified.

ISSUE

Did the Department correctly calculate the spousal allowance?

FINDINGS OF FACT

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

1. The Claimant was an ongoing MA recipient.
2. On November 7, 2009, the department performed a review for MA. The budget prepared show a MA spend down of \$609.00 per month.
3. On October 25, 2010, the Claimant filed a request for a hearing contesting the amount of the spousal allowance.

CONCLUSIONS OF LAW

The Medical Assistance (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 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).

The goal of the MA program is to ensure that essential health care services are made available to those who otherwise could not afford them.

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. However, L/H patients can choose to contribute less. Divert the **lower** of:

The community spouse income allowance.

The L/H patient's intended contribution; see Intent to Contribute in this item.

Compute the community spouse income allowance using steps one through five below.

Shelter Expenses

Allow shelter expenses for the couple's principal residence as long as the obligation to pay them exists in either the L/H patient's or community spouse's name.

Include expenses for that residence even when the community spouse is away (for example, in an adult foster care home). An adult foster care home or home for the aged is **not** considered a principal residence.

Shelter expenses are the total of the following monthly costs:

Land contract or mortgage payment, including principal and interest.

Home equity line of credit or second mortgage.

Rent.

Property taxes.

Assessments.

Homeowner's insurance.

Renter's insurance.

Maintenance charge for condominium or cooperative.

Also add the appropriate heat and utility allowance if there is an obligation to pay for heat and/or utilities. The heat and utility allowance for a month is:

\$529 starting January, 2008.

\$550 starting January, 2009.

Convert all expenses to a monthly amount for budgeting purposes.

Excess shelter allowance.

Subtract the appropriate shelter standard from the shelter expenses determined in step one. The shelter standard for a month is:

\$525, starting January, 2008.

\$547, starting July, 2009.

The result is the **excess shelter allowance**.

Total allowance.

Add the excess shelter allowance to the appropriate basic allowance. The basic allowance for a month is:

\$1750, starting April 2008.

\$1822, starting July 2009.

The result, up to the appropriate maximum, is the **total allowance**. The maximum allowance for a month is:

\$2610, starting January 2008.

\$2739, starting January 2009.

Exception: In hearings, Administrative Law Judges can **increase** the total allowance to divert more income to an L/H patient's community spouse; see BAM 600.

Countable income.

Determine the community spouse's countable income; see COUNTABLE INCOME in this item.

Community spouse income allowance.

Subtract the community spouse's countable income from the total allowance. The result is the **community spouse income allowance**.

Exception: Use court-ordered support as the community spouse income allowance if:

The L/H patient was ordered by the court to pay support to the community spouse, **and**

The court-ordered amount is greater than the result of step five. (BEM 546, pp. 2-4)

In the instant case, the amount to the claimant's Community Spouse was figured to be \$1,059.00. The amount was based on the maximum allowance of \$2,739.00 as shown above. (Department exhibit 3)

This ALJ finds that the department has acted in accordance with department policy and law in setting the claimant's spousal allowance at \$1,059.00 per month.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, AFFRIMS the Department's actions finding that the department correctly computed the claimant's spousal allowance.



Michael J. Bennane
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/17/2011

Date Mailed: 2/17/2011

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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.

MJB/jlg

cc:

