

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-47893
Issue Nos.: 2026, 5026
Case No.: [REDACTED]
Hearing Date: September 28, 2011
DHS County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 September 28, 2011, from Detroit, MI. Claimant appeared and testified via telephone from his residence with his representative, [REDACTED]. The Department of Human Services (Department) was represented by [REDACTED].

ISSUE

1. Whether the Department of Human Services (DHS or Department) properly utilized expenses submitted to determine if Claimant met his monthly Medical Assistance (MA) spend-down?
2. Whether the Department complied with an order issued regarding a State Emergency Relief (SER) application?

FINDINGS OF FACT

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

1. On June 15, 2011, a hearing was conducted by an Administrative Law Judge (ALJ) regarding Claimant's deductible expenses and an SER application.
2. On June 20, 2011, a Decision and Order was issued indicating the Department agreed to pay the requested SER amount of \$534. In addition, it was ordered that Claimant was to be given an opportunity to submit medical expenses and the Department was to process these expenses according to policy.

3. On June 30, 2011, Claimant filed another hearing request to compel the Department to act on the SER payment and to assert the expenses submitted were still not being properly utilized to meet his spend down.
4. The Department, subsequent to the hearing request, paid the SER payment of \$534.

CONCLUSIONS OF LAW

The 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 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 Bridges Reference Manual (RFT).

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).

Claimant filed his hearing request to compel the Department to act on an ALJ decision issued on June 20, 2011. At hearing, Claimant acknowledged the Department had, in fact, subsequent to his hearing request, paid the full SER amount as ordered. Claimant is no longer requesting a hearing regarding this issue. Therefore, this portion of the hearing request is DISMISSED.

Claimant's second issue is whether or not the Department properly utilized expenses he submitted for consideration following the decision issued on June 20, 2011. Claimant indicated he submitted all of his receipts for the Department to utilize and requested the Department process and open an MA case because his spend down should have been met with the expenses he submitted. Claimant submitted copies of the completed spend-down form as evidence. The Department testified they had, in fact, utilized the expenses allowed under the policy. Claimant pointed to regular medical appointments, mileage, prescriptions and expenses, such as creams and Epson salts, that he asserts he uses to treat medical conditions as not being fully utilized to meet his spend-down.

The Department acknowledged they were unable to give credit for the gas expenses as submitted since the Claimant simply provided a gas receipt and expected the Department to extrapolate the dates of medical appointments that required transportation expenses. The Department, however, failed to instruct Claimant as to what he needed to submit in order to utilize the costs associated with transportation to medical appointments to meet his spend-down. The Department, in addition, disallowed receipts for Epson salts and creams as they were not attached to a defined medical condition requiring a prescription to treat. Claimant argued his doctor provided a letter indicating he had multiple conditions and the doctor had been shown receipts and the doctor indicated these items would be medically required to treat Claimant's

conditions. The doctor's letter failed, however, to specify what items he was referring to as necessary to treat a medical condition. The Department also disallowed the amounts provided for medical appointments. The evidence submitted by Claimant on a deductible report was incomplete at best. Claimant failed to break down on the actual form the individual appointments and the actual costs for which he was, in fact, responsible.


This Administrative Law Judge finds, after reviewing the evidence and considering the testimony, that the Department should have requested clarification on any receipts submitted that were unclear. The Department, for example, was aware or should have been aware that Claimant was attempting to claim transportation costs. These costs, while allowed, require specific documentation in order to calculate the rate to use for meeting a spend-down.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department failed to properly determine what expenses are allowable for a deductible case.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to:

1. Initiate processing of Claimant's medical expenses for the months of March 2011 through June 2011;
2. Send a verification checklist detailing what documentation and what receipts Claimant must submit for use in his deductible case. Specifically:
 - a. transportation costs
 - b. non-prescription medical expenses (i.e., items such as Epson salts and creams)
 - c. medical expenses (ongoing doctor visits, treatments and therapy).



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 5, 2011

Date Mailed: October 6, 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

JWO/pf

cc:

