

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-8345
Issue No.: 2019
Case No.: [REDACTED]
Hearing Date: February 10, 2011
DHS County: Wayne (82-18)

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 hearing was held by telephone on February 10, 2011. Claimant did not appear. [REDACTED], Claimant's mother and Authorized Representative, appeared and testified for Claimant. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant's Medical Assistance (MA or Medicaid) Patient Pay Amount (PPA or spend-down) of \$812 per month is in accordance with DHS policies and procedures?

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, finds as fact:

1. On or about October 1, 2010, DHS awarded Medicaid benefits to Claimant as a member of "Group 2 Services" (G2S), a Medicaid program for adults who are aged, blind or disabled.
2. As a result, Claimant is required to pay a monthly PPA in order to receive MA benefits.
3. Claimant's Countable Income is \$1,187.50.
4. Claimant's Protected Income Limit is \$375.

5. Claimant's PPA is currently \$812 per month.
6. On November 17, 2010, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. 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.

The 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 or policies apply in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

In this case, DHS refers me to BEM 503, "Income, Unearned," as the basis for the action taken. I agree with DHS that this manual Item specifies that income includes Retirement and Survivors Disability Income (RSDI). However, I believe that Claimant is disputing the PPA amount and not the fact that DHS has counted RSDI benefits as income. At the hearing, Claimant's Authorized Representative testified that because the spend-down was so high, Claimant has only a small amount with which to pay his other living expenses.

Another manual Item, BEM 541, "MA Income Deductions – SSI-Related Adults," lists the items that may be counted as deductions. There are six items that are deductible as provided in BEM 541: court-ordered child support, blind and impairment-related work expenses, allocations to non-SSI-related children, \$20 unearned income disregard (Claimant received this deduction), "\$65 + ½" earned income disregard, and guardianship and conservator expenses

I have reviewed all of the evidence and testimony in this case as a whole. In particular, I have examined the Bridges SSI-Related Medical (Adults) – Income Budget Results. This reflects that DHS calculated Claimant's PPA according to an established formula. I have examined the calculations to see if they were correctly performed. I find and conclude that Claimant was given two deductions, a \$20 Unearned Income General Exclusion, and a Medicare Insurance premium deduction of \$96.50. After these two deductions, Claimant's countable income is \$1,187.50. Department Exhibit 1, p. 5.

Claimant's countable income is then given another deduction for all other living expenses, and this deduction is called the Protected Income Level. This is a dollar amount found by referring to two DHS tables, RFT 200, "MA Shelter Areas," and RFT 240, "MA Monthly Protected Income Levels." These tables came into effect in 2007. The first table indicates that Wayne County is in Shelter Area IV, and the second table indicates that in Shelter Area IV, the Protected Income Level is \$375 for a family group of one person. Therefore, I find and conclude that DHS acted in accordance with its policies and procedures in determining Claimant's Protected Income Level at \$375.

Claimant's Protected Income is an amount of money that is then deducted from the Countable Income. I believe that in this way, DHS "protects" some of the individual's income for other living expenses and considers Protected Income as money that is *not* available to pay medical expenses.

DHS' policy, therefore, is that medical expenses can then be paid from the remaining income of \$812, and DHS considers that all of this money is available to pay medical expenses. DHS makes no other deduction allowances from Claimant's income.

In conclusion, based on the above findings of fact and conclusions of law, I find and determine that DHS acted in accordance with its policies and procedures in calculating Claimant's MA PPA. I also find and conclude that DHS calculated Claimant's PPA correctly. DHS is AFFIRMED, and DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS acted correctly and in accordance with policy and procedure in this case. DHS is AFFIRMED. DHS need take no further action in this matter.

IT IS SO ORDERED.



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

Date Signed: February 14, 2011

2011-8345/JL

Date Mailed: February 17, 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

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