

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]  
Claimant

Reg. No: 2008-30723  
Issue No: 2014  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
September 24, 2009  
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 conference hearing was held on September 24, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) 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 8/21/08, claimant applied for welfare assistance with the Michigan DHS, numerous programs.
- (2) Claimant submitted necessary verifications including check stubs indicating that she works 30 hours per week at \$10.00 per hour.

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(3) The department calculated medical eligibility based upon the earnings verified by claimant. An MA budget shows claimant has excess income of \$432.00.

(4) The department testified but did not submit as evidence that it denied claimant's MA due to excess income and that claimant was not eligible for an MA deductible due to excess income. The denial notice was issued 8/21/08.

(5) On 9/3/08, claimant filed an appeal regarding the medical denial.

## CONCLUSIONS OF LAW

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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Applicable income policy is found in PEM Item 500. This policy requires the department to count the gross amount of earned income in calculating MA eligibility.

General deductible policy and procedure applicable to the case herein states in part:

### **MA GROUP 2 INCOME ELIGIBILITY**

#### **Deductible**

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

#### **Active Deductible**

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

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Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets its deductible.

### **Deductible Period**

Each calendar month is a separate spend-down period.

### **Deductible Amount**

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. PAM 130 explains verification and timeliness standards. PEM, Item 545, p. 9.

### **Redetermination**

You must redetermine eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. PEM, Item 545, p. 9.

## **COUNTABLE INCOME**

For all persons in this item, determine countable income as follows:

### **. Earned and Other Unearned Income**

Use PEM 500 and 530. For clients, use FIP- or SSI-related policy as appropriate. Use SSI-related policies for all other persons.

For the **client only**, disregard \$65 + ½ of his countable earned income. Use PRT 295 to determine the disregard. Earned income minus the disregard is **remaining earned income**. PEM, Item 546, p. 2.

## **HEALTH INSURANCE PREMIUMS**

Include as a need item the cost of any health insurance (see PRG) premiums (including vision and dental insurance) the L/H patient pays, regardless of who the coverage is for. This includes Medicare premium that a customer pays.

Do not include premiums paid by someone other than the L/H patient as a need item.

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Convert the cost of all premiums to a monthly amount for budgeting purposes. PEM, Item 546, p. 6.

In this case unrefuted evidence on the record is that at the time of the application, claimant worked approximately 30 hours per week at \$10.00 per hour. The MA budget correctly calculated gross earnings at \$1,200 per month. The budget shows claimant has excess income of \$432 per month. Where the net income exceeds Group 2 needs, there is no active MA eligibility. However, per BEM Item 135, p. 2, MA eligibility is still possible. BEM Item 545 indicates that where there is excess income, and other eligibility criteria are met, the DHS is to open a deductible case. See BEM Item 545, p. 9.

In this case, the department failed to include in its evidentiary packet the actual denial notice. However, the department testified that claimant was denied and had no MA eligibility at all. Under the above-cited authority, the DHS is required to assess all MA categories and/or to open a deductible case where other eligibility criteria are met. Thus, the department is reversed with regards to the failure of the department to place claimant in a deductible status.

## DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's failure to place claimant on an MA deductible case was incorrect, and,

The department is ORDERED to re-assess claimant's eligibility for an MA deductible case. If otherwise eligible, the department is ORDERED to place claimant on an MA deductible case from the month of application, and continuing. The DHS shall issue notice to claimant within ten days of the date of this Decision and Order. Claimant shall retain a right to a hearing

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on the outcome of the new determination should claimant dispute the department's new determination and/or calculation.

It is SO ORDERED.

/s/  
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Janice Spodarek  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: October 5, 2009

Date Mailed: October 6, 2009

**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 mailing date of the rehearing decision.

JS/cv

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