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: 2009-1307
Issue No: 2014
Case No: [redacted]
Load No:
Hearing Date:
August 26, 2009
Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 August 26, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's Medical Assistance (MA) benefits based upon its determination that claimant had excess income and a deductible spend-down?

FINDINGS OF FACT

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

(1) Claimant applied Group II Medical Assistance as a caretaker relative on August 31, 2008.

(2) A budget was processed on September 15, 2008 using income verification provided by claimant.

(3) The department caseworker determined that claimant had excess income for purposes of Medical Assistance benefits and a deductible in the amount of [redacted]

(4) On September 15, 2008, the department caseworker sent claimant notice that his application was denied and a Medical Assistance deductible spend-down case was opened.

(5) On September 29, 2008, claimant filed a request for a hearing to contest the department's negative action and to contest the amount of the spend-down.

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).

Michigan provides MA for eligible clients under two general classifications: Group I and Group II MA. Claimant qualified under the Group II classification, which consists of clients whose eligibility results from the State designating certain types of individuals as medically needy. PEM, Item 105. In order to qualify for Group II MA, a medically needy client must have income that is equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the protected basic maintenance level by considering:

1. The protected income level.
2. The amount diverted to dependents.
3. Health insurance or premiums.
4. Remedial services, if determining the eligibility for claimants in adult care homes.

If the client's income exceeds the protected income level, the excess amount must be used to pay medical expenses before Group II MA coverage can begin. This process is known as a spend-down. The policy requires the department to count and budget all income received that is not specifically excluded. There are three main types of income: countable earned, countable unearned and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted may be more than the amount the person actually receives, because it is the amount before any deductions are taken, including the deductions for taxes and garnishments. The amount before any deductions are taken is called the gross amount. PEM, Item 500, p. 1.

The department, in the instant case, calculated claimant's income based upon receipt of [redacted] per month in gross earned income. After giving the claimant the appropriate earned income deduction of $90, claimant was left with net monthly earnings of [redacted]. Because claimant has two dependents, his total net income was multiplied by 4.9 prorate divisor and the prorated share which was to be used for dependents was $514. [redacted] in net income minus $514 in prorated share equals [redacted] in net monthly earned income. Federal regulations at 42 CFR 435.831 provides standards for the determination of MA monthly protected income levels. The department is in compliance with the Program Reference Manual, Tables, Charts and Schedules, Table 240-1. Table 240-1 indicates that claimant's monthly protected income level for a person in claimant's circumstances with a fiscal group of one person is $375. [redacted] in monthly net

income minus $375 in total needs equals excess income in the amount of [redacted]. The department's determination that claimant had excess income for purposes of Medical Assistance eligibility is correct.

Deductible spend-down is a process which allows a customer with excess income to become eligible for Group II MA if sufficient allowable medical expenses are incurred. PEM, Item 545, p. 1. Meeting the spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down amount for the calendar month tested. PEM, Item 545, p, 9. The group must report expenses by the last day of the third month following the month it wants MA coverage for a period. PEM, Item 130 explains verification and timeliness standards. PEM, Item 545, p. 9.

The department's determination that claimant has a spend-down in the amount of [redacted] per month is correct based upon the information contained in the file.

Claimant's allegation that the spend-down is too expensive and unfair because of his other expenses is a compelling, equitable argument to be excused from the department policy requirements.

The claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

> Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge has no equity powers. Therefore, the Administrative Law Judge finds that the department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant had excess income for purposes of Medical Assistance benefit eligibility and when it determined that claimant had a monthly spend-down in the amount of [redacted]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did appropriately determine that claimant had excess income for purposes of Medical Assistance benefit eligibility. It also was correct in determining that claimant had a deductible spend-down in the amount of [redacted] per month.

Accordingly, the department's decision is AFFIRMED.

/s/_____
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 26, 2009

Date Mailed: August 27, 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 receipt date of the rehearing decision.

LYL/vmc

cc: [redacted]