

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: 2009-13176
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 5, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on October 5, 2009. The Claimant appeared and testified. Patricia Bailey, Program Manger, appeared on behalf of the Department.

ISSUE

Whether the Department properly determined Claimant's Medical Assistance ("MA") deductible amount?

FINDINGS OF FACT

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

1. Claimant was a previous MA recipient whose MA case was closed due to failure to turn in verifications.
2. Claimant and her husband re-applied for MA benefits on 1/7/09.

3. A budget was completed on in January, 2009 which determined both Claimant and husband's deductible to be \$476.00. (Exhibit 1, pp. 2-3).
4. The Department determined that Claimants had a group net income of \$1017 from earned income. Claimant testified that the income amounts used for her and her husband were accurate at the time of the budget compilation.
5. The Claimant testified that there are two adults and two minor children in her household.
6. Claimant requested a hearing on January 7, 2009, contesting the Department's decision that Claimant be required to pay a deductible and the amount of the deductible on the 1/7/09 MA Application.

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, formally 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 Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare

or formally blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP related categories. *Id.*

There are various SSI related categories under which one can qualify for MA benefits. PEM 150-174. The MA regulations also divide MA recipients into Group 1 and Group 2 which relate to financial eligibility factors. Financial eligibility for Group 1 exists when countable income minus allowable expenses equals or is below certain income limits. PEM 105, p. 1. The income limits vary by category and are for non-medical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for FIP and SSI related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. *Id.*

To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual's protected income level (PPI) must be determined. The PPI is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM 544. If fiscal group has net income that is the same or less than the PPI, RFT 240, then it will qualify for MA. If the net income is over the PPI, then the fiscal group may become eligible for assistance under the deductible program. A deductible is a process which allows a client with excess income to be eligible for MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report

expenses by the last day of the third month following the month it wants medical coverage. PEM 545; 42 CRF 435.831.

In order to determine Group 2 FIP Related MA and Healthy Kids MA \$90 is deducted from the countable earnings of each fiscal group member with earnings. Then another \$30.00 is deducted plus 1/3 of a fiscal group member's remaining earned income if the member received FIP or LIF in at least 1 or 4 calendar months preceding the month being tested. There are also deductibles applied for dependent care expenses, and child support paid. The next step is to determine the prorate divisor (2.9 is added to the number of dependents – spouse and children under 18 but not person applying for MA) which determines the individual's prorated share. The group's net income is then divided by the prorate divisor. Finally, in order to determine the non parent caretaker's prorated share divide the personal total net income by the individual's prorate divisor. The result is the prorated share of the fiscal group member's income for purposes of determining the member's eligibility. PEM 536, pp. 3-4. Income eligibility exists for a person requesting MA when the net income of the person's fiscal group does not exceed the appropriate poverty level in RFT 246 and if the individual income is below the monthly protected income level by shelter area. RFT 200.

In the subject case, the Department did not include the minor children in determining the pro-rate divisor for either Claimant or her husband as required by PEM 536, p. 3. The prorate divisor should be 2.9 + 1 (spouse) and 2 (minor children) or 5.9 total. This Department error affected the amount of Claimant's benefit.

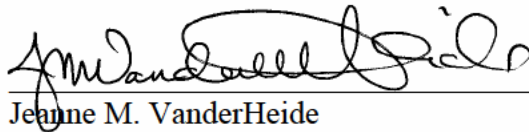
Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above finds of fact and conclusions of law, finds the Department improperly calculated the number of Claimant's dependents for use in calculating eligibility for FIP Related MA.

Accordingly, it is ORDERED

1. The Department's January, 2009 MA decision is REVERSED.
2. The Department shall recalculate Claimant and husband's MA benefits as of January, 2009 using 5.9 as the pro-rate divisor.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/03/09

Date Mailed: 11/09/09

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.

JV/dj

cc:

