

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: 2009-13296
Issue No: 2017
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 29, 2009
Muskegon County DHS

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 April 29, 2009. Claimant appeared and testified.

ISSUE

Did the Department properly determined the Claimant had excess income for Medicare premium coverage?

FINDINGS OF FACT

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

1. On December 30, 2008 the Department completed an MA budget for the Claimant. The Department determined based on RSDI amount the Claimant had excess income for MA and Medicare premium coverage and thus placed the Claimant's case into

a spend down. The Claimant's case was a spend down case prior to review however the Claimant had previously qualified for the Medicare premium to be covered.

2. On January 8, 2009 Claimant filed a request for hearing.

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 (formerly 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).

Michigan provides MA for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant falls under Group 2 MA classification which consists of client's whose eligibility results from the state designating types of individuals as "medically needy." MCL 400.106; MSA 16.490 (16), MCL 400.107; MSA 16.490(17), and PEM, Item 105.

In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protected basic maintenance level. Department policy sets forth the method for determining the protected basic maintenance level by considering: (1) the protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services if determining eligibility for clients in adult-care homes. The protected income level is a set amount for non-medical needs such as shelter, food and incidental expenses. In all other cases other than those involving long-term care, the appropriate protected income level must be taken from PRT

240. PEM Item 545, and 42 CFR 435.811 through 435.814. If the individual's income exceeds the protected income level, the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as "spend-down." Policy requires the agency 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.

In the present case, Claimant's total countable income is \$1225. The Claimant's protected income level is \$350. After subtracting the total needs of the Claimant figured at \$446.40, the Claimant would be left with \$778 spend-down amount. The Department properly completed a budget reflected all countable sources of income and determined correctly that the Claimant would only qualify for MA under a spend-down case.

The income cut off for Medicare premium coverage is \$1149. The Claimant's countable income exceeds this amount by \$76. Therefore the Department properly determined the Claimant ineligible for the Medicare premium plan coverage.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined the Claimant ineligible for Medicare premium coverage.

Accordingly the Department's decision is hereby **AFFIRMED**.

/s/
Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/12/09

Date Mailed: 5/12/09

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 receipt 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.

JWO/at

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