

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: 2009-18565
Issue No: 2013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 28, 2009
Presque Isle County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 October 28, 2009.

ISSUE

Whether the Department of Human Services (department) properly determined claimant's eligibility for Medical Assistance (MA).

FINDINGS OF FACT

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

(1) January 13, 2009, the department prepared a Medicaid budget. Claimant's income was [REDACTED] consisting of self-employment earnings. A standard [REDACTED] work expense was deducted leaving net earnings for MA purposes of [REDACTED]. Through a standard formula, income was

allocated to other household members. Final countable income for each household member was [REDACTED]. Claimant had excess income to qualify. Department Exhibit A, pgs 10-13.

.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).

Department manuals provide the following policy statements and instructions for caseworkers:

When determining eligibility for MA, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. Self-employment income is not excluded and must be counted when determining MA eligibility. In this case, the MA program provides for a standard deduction from earnings of [REDACTED]. If the household member with earned income received Family Independence Agency (FIP) or Low Income Family (LIF) MA benefits in at least one of the four months preceding the month for which eligibility is being determined, the MA provides for an additional deduction from earnings of [REDACTED] plus one third. A deduction may be taken for the cost of child care when necessary for a household member to work. Additional deductions may be taken for payment of court-ordered child support, guardianship fees, or conservatorship fees. When a group member has dependents, a percentage of income may be allocated to the dependents. When a group member has self-employment income, actual expenses may be deducted from the gross income

provided receipts and business records for expenses are provided. Otherwise a standard 25 percent deduction may be taken. Bridges Eligibility Manual (BEM) 500, 531, and 536; Social Security Act, Section 1902(a)(10); 42 CFR 435.831(a)(1); MCL 400.106; Social Security Act Sections 1902(a)(10), 1931; 42 CFR 435, Subparts H and I; MCL 400.106; Social Security Act, Sections 1902(r)(2), 1931(b); 42 CFR 435.600-832.

In this case, the department determined that claimant had countable income of [REDACTED]. At hearing, the department testified that 25 percent of claimant's gross income had been deducted as an employment expense. The department did so because actual expenses had not been verified. However, in examining the department's proof of income (Department Exhibit A, pgs 16-21) and its budget (Department Exhibit A, pgs 10-11), it is unclear that 25 percent of claimant's income has been deducted. In examining the department's letter to the claimant (Department Exhibit A, pg 13), the department indicates the income that was counted when the budget was prepared. The income listed on the letter does not match the income stated on the budget. The income on the budget is somewhat consistent with the income verified by Department Exhibit A, pgs 16-21. As such, the department has not met its burden of proof that it properly included a 25 percent self-employment expense deduction from claimant's earnings nor did it meet its burden of proof that the income included on the budget is the accurate income that claimant received. Regarding claimant's assertion at hearing that her tax return should have been used to calculate her work expenses, this assertion is not consistent with department policy. Even so, the department's action cannot be upheld. Finding of Fact 1.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance benefits.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's eligibility for Medical Assistance in compliance with this Decision and Order and department policy.

/s/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 22, 2010

Date Mailed: April 22, 2010

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.

JAB/db

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