

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: 2009-21931
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 18, 2009
Gladwin 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 hearing was held on August 18, 2009.

ISSUE

Did the Department of Human Services (DHS) properly calculate a spend-down on behalf of claimant effective 3/24/09?

FINDINGS OF FACT

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

- (1) At all relevant times prior to the action herein, claimant was an MA recipient under the caretaker-relative category with the Michigan DHS. Claimant had an active Medicaid case.
- (2) On 2/19/09, claimant notified the department that she married.

- (3) On 2/19/09, the DHS issued a Verification Checklist for the marriage license.

Exhibit 11.

(4) The department received the necessary verifications including verification of claimant's spouse's income. Claimant's spouse receives [REDACTED] [REDACTED] in the amount of [REDACTED] per month. Exhibit 5.

(5) The department calculated a new caretaker-relative budget showing claimant's spend-down to be [REDACTED] per month.

(6) On May 12, 09, DHS issued notice to claimant informing her that she will have a spend-down effective 3/24/09 of [REDACTED] per month.

(7) The action took effect.

(8) Claimant did not dispute the budget figures used in calculating her spend-down eligibility.

(9) Claimant's expenses exceed her income.

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).

MA spend-down policy and procedure 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.

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

- . RSDI, Railroad Retirement and U.S. Civil Service and Federal Employee Retirement System

Use the countable amount per PEM 500 and 530. Deduct Medicare premiums actually withheld by:

- .. including the L/H patient's premium along with other health insurance premiums, and
- .. subtracting the premium for others (example, the community spouse) from their unearned income.

Exception: Do **not** use the following special exclusion policies regarding RSDI. These policies only apply to eligibility, **not** post-eligibility patient-pay amounts.

- .. PEM 155, “**503 COUNTABLE RSDI**”
- .. PEM 156, “**COUNTABLE RSDI**”
- .. PEM 157, “**COUNTABLE RSDI**”
- .. PEM 158, “**COUNTABLE RSDI**”

Note: The checks of clients on Buy-In increase about 3 months after Buy-In is initiated. Re-compute the PPA when the client’s check actually changes. PAM 810 has information about Buy-In. PEM, Item 546, pp. 1-2.

. 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.

Income policy and procedure is found in BEM Item 500. That item requires the department to count the gross income as any RSDI income in calculating eligibility.

The caretaker-relative budget in this case takes into account prorated share of income for the children.

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. Medicaid is also known as Medical Assistance (MA). PEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). PEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. PEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in PEM 544. PEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in the policy contained in the Program Reference Table (PRT). An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, a MA group may become eligible for assistance under the deductible program. The deductible program 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 CFR 435.831.

The protected income in this case is [REDACTED] See Exhibit 3.

In this case, claimant’s marriage required the department to count all household income. Claimant’s spouse is a recipient of [REDACTED] income. While this is not a fortunate result, the counting of this income changed claimant’s MA active case to a spend-down case of [REDACTED] per month. Claimant’s expenses exceed her income. However, the department must follow federal regulations, law, and state policy in calculating MA eligibility. The only eligibility claimant has is for a spend down. A review of the department’s budget indicates that the department correctly

calculated eligibility and thus, the department's calculation and change to a spend-down status must be upheld.

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 correct.

Accordingly, the department's change of claimant's active MA case to a spend-down is hereby UPHELD.

/s/

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

Date Signed: August 24, 2009

Date Mailed: August 24, 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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