

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: 2009-22820

Issue No: 2014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 3, 2010

Wayne 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 February 3, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine claimant had a 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 was a Medical Assistance benefit recipient.
- (2) It was determined based upon information claimant provided, that claimant was not eligible coverage under the Family Medical Program and her case was transferred to a Medical Assistance spend-down.

(3) Her spend-down for the month of February 2009 was in the amount of \$ [REDACTED]

(4) A new determination was made for each month and the spend-down for July 2009 was in the amount of \$ [REDACTED]

(5) On February 17, 2009, the department caseworker sent claimant notice that the Medical Assistance benefits would be cancelled and her case would be transferred to a spend-down effective February 23, 2009.

(6) On April 9, 2009, claimant filed a request for a hearing to contest the department's negative action.

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 Medical Assistance for eligible clients under 2 general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because of her status as a caretaker relative, which consists of claimant's eligibility results from a state designated certain types of individuals as medically needy. BEM, Item 105. In order to qualify for Group 2 MA, a medically needy client must have income as equal to, or less than the basic protected monthly income level. The department policy sets forth a method for determining the protected level by considering:

(1) the protected income level,

- (2) the amount diverted to dependents,
- (3) health insurance or premiums, and
- (4) remedial services in determining the eligibility for claimant in adult care home.

The client's income exceeds the protected income level and the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a spend-down. Policy requires the department to count and budget all income received that is not specifically excluded. There are 3 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 a 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 received because it is the amount before deductions are taken, including the deductions for taxes and garnishments. The amount before any deductions are taken is called the gross amount. BEM, Item 500, p. 1. The department, in the instant case, calculated the claimant's income based upon his receipt of \$ [REDACTED] in gross earned income in the month of July 2009.

After giving claimant the appropriate work expense of \$ [REDACTED] and a dependent care deduction of \$ [REDACTED] claimant was left with a net income of \$ [REDACTED]

The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal groups net income, after being provided with the most beneficial unearned income deduction was \$ [REDACTED] in net income. Federal Regulations at 42 CFR 435.831 provides standards for the determination of the Medical Assistance monthly protected income levels. The department, in this case, is in compliance with the Program Reference Manual, tables, charts and schedules, table 240-1. Table 240-1 indicates that the claimant's monthly protected income level

for a person in claimant's fiscal group in claimant's situation for a group of 1 person is \$ [REDACTED] which would have her left with a \$ [REDACTED] monthly excess income. The department's determination that claimant had excess income for purposes of Medical Assistance eligibility is correct. In addition, the department recalculated claimant's spend-down for the month of July 2009 and determined that her net income was \$ [REDACTED] \$ [REDACTED] in net income minus \$ [REDACTED] in total needs equals \$ [REDACTED] in spend-down for July 2009.

Deductible spend-down is a process which allows a customer with excess income to become eligible for Group 2 MA if sufficient allowable Medical expenses are incurred. BEM, Item 545, p. 1. Meeting the spend-downs last deductible means, reporting verifying allowable medical expenses that equal or exceed the spend-down/deductible for the calendar month tested. BEM, 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 that period. BEM, Item 130, explains verification of time limit standards. BEM, Item 545, p. 9. The department's determination that a claimant had a spend-down for all of the months in question is correct. In the instant case, claimant testified on the record that she understood spend-down and that she had contacted her caseworker and told her that she could not afford the spend-down. Claimant testified that in 2009 her job offered her health insurance but once she applied for the health insurance at her job, her employer notified her that she still had a Medicaid spend-down and they would not be able to offer her health insurance if she had the Medicaid spend-down. Claimant testified that she contacted the department on several occasions by telephone to try to get them to cancel the spend-down so that she could get health insurance from her company before October 1, 2009. Claimant did not make a personal appearance at the department and did not send anything in writing to the department.

This Administrative Law Judge finds that the department had 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 benefits and when it determined that claimant had a Medicaid spend-down for the different month. The department caseworker was conscientious of determining that claimants spend-down had dropped by July 2009 to \$ [REDACTED]. Claimant testified that she did not receive notification that her spend-down had dropped, however, claimant was not particularly diligent in attempting to notify that her caseworker that she need her Medical Assistance spend-down case to close. Had claimant wanted to have her case closed she could simply have sent the department something in writing or could have come to the department in person to notify the department that she wanted her spend-down case to be closed. Claimant did neither of those things. There is no evidence that claimant contacted the department on numerous occasions besides boss's testimony. Though this Administrative Law Judge finds that claimant is credible and that she did attempt to contact the department, she never talked to a live person and therefore the department did not receive the instruction to cancel the Medicaid spend-down case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services has established by the necessary competent, material and substantial evidence in the record that it was acting in compliance with department policy when it cancelled claimants Medical Assistance benefits and opened a spend-down case for claimant based on claimants possession of excess income.

Accordingly, the department's decision is AFFIRMED.

/s/

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

Date Signed: April 20, 2010

Date Mailed: April 21, 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 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/alc

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