

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: 2009-24562

Issue No: 2014; 1005

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 12, 2010

Macomb 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 January 12, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's Medical Assistance (MA-P) and Family Independence Program (FIP) benefits based upon its determination that claimant had excess income and 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) On January 21, 2009, claimant filed an application for Medical Assistance and Family Independence Program benefits.

(2) Claimant was receiving [REDACTED] in the amount of \$672 every two weeks.

(3) An MA LOA budget was completed on February 17, 2009.

(3) The net income was determined to be \$1,068.

(4) The income limit is \$541 for a person in claimant's fiscal circumstances.

(5) The monthly excess income and deductible was determined to be \$527.

(6) On February 17, 2009, the department caseworker sent claimant notice that his application for Medical Assistance benefits was denied based upon excess income and stated that a deductible would be opened in the amount of \$527 per month.

(7) An FIP LOA budget was completed on February 17, 2009. The flat standard for a group size of four individuals is \$597 per month. The unearned income the claimant was receiving was \$1,344 per month. The family was ineligible for the Family Independence Program due to excess income.

(8) On February 17, 2009, the department caseworker sent claimant notice that his application was denied.

(9) On February 23, 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 two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because he is a caretaker relative, which consists of clients whose eligibility results from the State designating 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 that is equal to or less than the basic protected monthly income level.

Department policy sets a method for determining the protected maintenance level by considering:

1. The protected income level,
2. The amount diverted to dependents,
3. Health insurance or premiums, and
4. Remedial services if determining the eligibility for claimant's in adult care homes.

If a client'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 a spend-down. Policy requires the department to count and budget all income received that is not specifically excluded. There are three 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 remuneration or profit. Unearned income is any income that is not earned. The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including 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 the receipt of [REDACTED] in the amount \$672 every two weeks for a gross amount of \$1,344 per month. Claimant was given deductions based upon the fact that he is a caretaker relative in the amount of \$274, which leaves him with a net income of \$1,068 per month and monthly net income.

After giving claimant the appropriate income expense deductions, the claimant was receiving \$1,068 in net monthly income for both himself and his wife. The Administrative Law Judge has reviewed the record and the exhibits and finds the fiscal group's net income, after being provided with the most beneficial unearned income deduction, is correct at \$1,068. Federal regulations at 42 CFR 435.831 provide standards for the determination of the Medical Assistance multi-protected income levels. The department is in compliance with the Program Reference Manual, Table, Charts, and Schedules, Table 240-1. Table 240-1 indicates that the claimant's monthly protected income level for the claimant's fiscal group of two persons is \$541 per month. \$1,068 in monthly net income minus \$541 in total needs equals \$527 in monthly excess income. The department's determination that claimant had excess income for purposes of Medical Assistance eligibility is correct.

The deductible spend-down is a process which allows the 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-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down amount 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 a period. BEM, Item 130, explains verifications and timeliness standards. BEM, Item 545, p. 9.

The department's determination that claimant had a spend-down in the amount of \$527 per month is correct.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The claimant's FIP benefits were denied when the department received notice that the claimant was receiving [REDACTED]. The department is required to count [REDACTED]. BEM, Item 500, p. 34. The calculations for FIP benefits are spelled out in BEM 518 which states in part the financial need exists when the following is true: There is at least a \$1 deficit after income is budgeted. BEM, Item 518, p. 2. In the instant case, claimant's monthly gross income is \$1,344. The flat standard for a group size of four individuals for Family Independence Program benefit eligibility is \$597. Therefore, there is no deficit. The department was correct in determining that claimant is not eligible to receive Family Independence Program benefits based upon excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has 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 was not eligible to receive Family Independence Program benefits

because he possessed excess income and when it determined that claimant was not eligible to receive Medical Assistance benefits because he possessed excess income and a medical spend-down of \$527 per month.

Accordingly, the department's decision is AFFIRMED.

/s/

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

Date Signed: February 24, 2010

Date Mailed: February 25, 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/vmc

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