

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: 2009-24717

Issue No: 2014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 19, 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 19, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's Medical Assistance (MA-P) benefits based upon its determination that claimant had excess income and a deductible 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 approved for Medical Assistance benefits based upon disability.
- (2) Claimant receives RSDI income in the amount of [REDACTED] per month and a pension of [REDACTED] per month.

- (3) RSDI income was verified per SOLQ printout. (Exhibit #5)
- (4) The pension was verified pursuant to claimant's application. (Exhibit #6)
- (5) The income was budgeted as unearned income per BEM, Item 541.
- (6) A budget was generated which showed excess income for purposes of Medical Assistance benefit eligibility and a deductible in the amount of [REDACTED]
- (7) The department caseworker sent claimant notice that his application was denied.
- (8) On March 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 two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because of his receipt of RSDI income, 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 exceeded 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 \$2,474 per month in gross unearned income.

After giving claimant the appropriate unearned income expense deductions, the claimant was receiving [REDACTED] in net monthly income. The Administrative Law Judge has reviewed the record and the exhibits and finds the fiscal groups net income, after being provided with the most beneficial unearned income deduction, equals [REDACTED] per month. 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 fiscal group of one person is \$408 per month. [REDACTED] in monthly net income minus \$408 in total needs equals [REDACTED] in monthly excess income. The department's

determination that claimant had excess income for purposes of Medical Assistance eligibility is correct.

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 [REDACTED] per month is correct. (Exhibit #3)

Claimant testified on the record that he has health problems and should receive Medicaid. The claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

This Administrative Law Judge does not have equity powers and cannot act in contravention of department policy. Therefore, the department properly counted claimant's RSDI

income and pension income and properly determined that claimant was not eligible to receive Medical Assistance benefits based upon its determination that claimant had excess income. The department's determination that claimant has a spend-down is also correct. The department's actions in this matter 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 of Human Services properly determined that claimant was not eligible to receive Medical Assistance benefits because he had excess income and also properly determined that claimant had a spend-down in the amount of [REDACTED] based upon his possession of excess income.

Accordingly, the department's decision is AFFIRMED. The Administrative Law Judge finds 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 had excess income and a spend-down.

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

Date Signed: February 24, 2010

Date Mailed: February 24, 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

cc:

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