

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: 2009-27434
Issue No: 2026; 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 15, 2009
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, October 15, 2009. The claimant personally appeared and testified on her own behalf.

ISSUES

- (1) Did the department properly cancel the claimant's QMB Medical Assistance (MA) benefits based upon its determination that the claimant had excess income?
- (2) Did the department properly place the claimant's MA case in spend-down status and determine her monthly deductible?

FINDINGS OF FACT

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

(1) In the past, the claimant had guardianship, which did not require the minor's income to be counted so they qualified for full MA benefits with an annual review December 2008.

(2) Subsequently, the claimant adopted her son through the local courts instead of through DHS, which required his income to be counted in the household allotment.

(3) The claimant had earned income of [REDACTED] per month. (Department Exhibit 4)

(4) The claimant's adopted son received [REDACTED] in RSDI benefits. (Department Exhibit 2)

(5) The claimant received [REDACTED] in RSDI Social Security benefits. (Department Exhibit 3)

(6) On December 10, 2008, the department caseworker calculated the claimant's eligibility for continued MA benefits based on the claimant's earned income of [REDACTED], the claimant's unearned income of [REDACTED], and the claimant's adopted son's unearned income of [REDACTED]. (Department Exhibit 15-16):

- After a \$90 work expense deduction, the claimant had net earnings of [REDACTED].
- The claimant had a total net income of [REDACTED], resulting from the unearned income of [REDACTED] and the net earned income of [REDACTED].
- The claimant had two dependents of herself and her child, resulting in a prorate divisor of 3.9 of a prorated share of \$367 diverted to dependents.
- The claimant's adopted son's eligibility was calculated using his [REDACTED] in earned income and the [REDACTED] contributed by the claimant, resulting in a fiscal group net income of [REDACTED], which exceeded the 150% income limit of \$1,750.

(7) On December 10, 2008, the department caseworker calculated the claimant's eligibility for SSI-Related MA based on the claimant's earned income of [REDACTED] and unearned income of [REDACTED]. (Department Exhibit 11-13):

- The claimant qualified for a \$20 unearned income disregard, resulting in a net unearned earnings of [REDACTED].
- The claimant qualified for \$65 plus one half disregard of \$332 from her [REDACTED] in earned income, resulting in a net earned income of [REDACTED].
- The claimant had a net income of [REDACTED], resulting from the claimant's unearned net income of [REDACTED] and earned net income of [REDACTED].
- The claimant did not qualify for full QMB resulting in full MA benefits because the claimant's [REDACTED], with a \$50 COLA disregard exceeded the full QMB limit of \$851, but the claimant would qualify for ALMB because her net income of [REDACTED] was below the \$1,149 required to be eligible for ALMB.
- The claimant had a total need of \$408, resulting from a protected income level of \$408 for a protected income level for a group size of one in her shelter area.
- The claimant had an excess income/deductible of \$765, resulting from the [REDACTED] net income minus a total need of \$408.

(8) On December 10, 2008, the department caseworker sent the claimant a notice that her MA coverage had been cancelled, but she had a deductible of \$765 that she would have to meet each month. In addition, the claimant's adopted son had excess income that exceeded the income limit for Healthy Kids, but was referred to MIChild. (Department Exhibit 10, 18-19)

(9) On December 26, 2008, the department received a hearing request from the claimant, contesting 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).

The department manuals provide the following relevant policy statements and instructions for caseworkers:

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

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 means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

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 is called the **gross** amount. PEM, Item 500, p. 1.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

DEPARTMENT PHILOSOPHY

The Department's income budgeting policies are designed to support financial self-sufficiency by encouraging families to pursue all available means of income. We offer deductions from earned income so that families are financially advantaged by working. Staff should stress to clients the advantages of obtaining outside income. PEM, Item 518, p. 1.

Standard Monthly Amount

Stable and Fluctuating Income

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

Exception: Do not convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. PEM, Item 505, p. 7.

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 its 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.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "**EXHIBIT I**") that equal or exceed the deductible amount for the calendar month tested. PEM, Item 545, p. 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.

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.

In this case, the claimant’s case changed because she adopted her son that had been in her care for a number of years. The claimant adopted her son through the local courts instead of through DHS, which required his income to be counted in the household allotment. As a result, the claimant’s adopted son no longer qualified for Healthy Kids, but would had to have a referral

to MICHild and the claimant had a deductible of \$765 in order to be eligible for MA. Therefore, the claimant's MA deductible determination 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 properly placed the claimant's MA case in spend-down status and determined a monthly deductible of \$765.

Accordingly, the department's MA deductible action is **AFFIRMED**.

/s/
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 17, 2009

Date Mailed: November 17, 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 receipt date of the rehearing decision.

CGF/vmc

cc:

