

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: 2009-29334
Issue No: 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 9, 2010
Kalamazoo 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, an in-person hearing was held on March 9, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly cancel 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 had an active Medical Assistance benefit case.

(2) On April 3, 2009, the department caseworker made a new determination which resulted in claimant having a monthly deductible of \$ [REDACTED] per month plus being applied to the medicaid effective May 1, 2009.

(3) On April 3, 2009, the department caseworker sent claimant notice that his medical assistance benefits will be cancelled and a spend-down in excess of \$ [REDACTED] would be opposed.

(4) On June 5, 2009, claimant filed a request for a hearing to contest the department's negative action.

(5) After the client filed a hearing request stating the income that was used on his determination was incorrect, a review of claimant's Medicaid eligibility budget was done.

(6) There was an error in the original budget and a correction to the Medicaid budget was complete on June 17, 2009.

(7) A new Medicaid budget with the correct income still resulted in a deductible of \$ [REDACTED]

(8) This was discussed with the claimant but claimant wished to pursue the issue on the deductible.

(9) Claimant received \$ [REDACTED] per month in Veterans Administration benefits and \$ [REDACTED] per month in RSDI benefits on the Social Security Administration for a total of \$ [REDACTED] per month in unearned 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).

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 his receipt of RSDI income, 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.

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

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

If the client's income exceeds the protected income levels, the excess 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 numeration 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 Veterans Administration benefits and \$ [REDACTED] in monthly RSDI income for a total of \$ [REDACTED] per month in monthly gross unearned income.

After giving claimant the appropriate income unearned expense deduction the claimant was noted to have a monthly net income of \$ [REDACTED] in countable unearned income. The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income, after being provided with the most beneficial unearned income deduction is \$ [REDACTED] per month. 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] \$ [REDACTED] in countable unearned income minus \$ [REDACTED] in protected income level equals \$ [REDACTED] in excess income and a deductible spend-down of \$ [REDACTED] per month. (Exhibit 2) 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 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/deductable in the amount of \$ [REDACTED] per month is correct (Exhibit 2)

Claimant testified on the record that the spend-down is unfair and too expensive based upon his income and that he did have full Medicaid before he feels that he is being singled out improperly.

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).

In the instant case, this Administrative Law Judge has no equity powers. Though the claimant makes a compelling equitable argument, this Administrative Law Judge has no authority to make decisions based upon equity.

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 claimant's Medical Assistance benefits and opened a spend-

down/deductable case for claimant in the amount of \$ [REDACTED] based on claimant's 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

cc:

[REDACTED]