

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: 2009-12813

Issue No: 2014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 23, 2010

Oakland 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 23, 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 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 has an active Medical Assistance benefits case with her husband and 4 children.

(2) The department determined that based upon claimant's husband's income from unemployment compensation, that claimant and her husband are not eligible for full Medicaid and have a deductible case.

(3) On December 30, 2008, the department caseworker sent claimant notice that her Medical Assistance benefits would be cancelled and a deductible case would be opened.

(4) On December 23, 2008, claimant filed a request for a hearing to contest the department's negative action.

(5) The negative action was deleted pending a hearing.

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 she is a caretaker relative. Group 2 classifications consist of clients whose eligibility results from 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 that is equal to or less than the basic protected monthly income level.

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

1. the protected income level,
2. the amount diverted to dependants,
3. health insurance or premiums,
4. remedial services, if determining the eligibility for claimant's in adult care homes.

If the claimant's income exceeds the protected income level, 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 but 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 from duties that were for 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 receives because it is the amount before the deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called the gross amount. PEM, Item 500, p. 1.

In the instant case, the department calculated claimant's monthly income based upon claimant's husband's receipt of unemployment compensation benefits. The budget contained in the file indicates that claimant was receiving \$ [REDACTED] per week in unemployment compensation benefits for a total of \$ [REDACTED] per month in gross unemployment compensation benefits per month. After giving claimant the appropriate unearned income expense deductions, the claimant and her husband were receiving \$ [REDACTED] per month, the department gave claimant a fiscal groups prorate divisor based upon the number of dependents which was 5. The prorate divisor was 7.9 and the prorate was share 183. Claimant and her spouse then were receiving \$ [REDACTED] per month in the fiscal

group's net income, based upon the fact that they had 4 dependent children. The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income in the month of December 2008, after being provided with the most beneficial unearned income deduction, was \$ [REDACTED]. Department regulations at 42 CFR 435.831 provides standards for the determination of the Medical Assistance monthly protected income levels. The department is in compliance with Program Reference Manual, tables, charts, schedules, table 240-1. Table 240-1 indicates that the claimant's monthly protected income level for claimant's fiscal group is 2 people at \$ [REDACTED]. \$ [REDACTED] in the fiscal group's net income minus \$ [REDACTED] in protected income level equal \$ [REDACTED] in monthly excess income. The department's determination that claimant had excess income for purposes of Medical Assistance eligibility was correct for the month of December 2008.

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. PEM, Item 545, p. 1. Needing a spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down month 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 it wants MA coverage for. BEM, Item 130, explains verification and timeliness standards. BEM, Item 545, p. 9. The department's determination that claimant had a spend-down in the month of December 2008 in the amount of \$ [REDACTED] is correct. However, the department did not provide this Administrative Law Judge any information as to whether or not claimant met the spend-down that month and therefore was eligible to receive Medical Assistance benefits for that month or any months thereafter. Claimant testified on the record that her medical expenses exceed \$ [REDACTED] per month which would mean that claimant would be eligible

to receive Medical Assistance benefits for the month. The information given by the department is that from October 2008 through June 2009, claimant was eligible to receive Medical Assistance benefits and was not eligible in July 2009. However, there was no information provided as to why claimant would not be eligible in 2009 if her monthly expenses again exceeded \$ [REDACTED]. Therefore, this Administrative Law Judge finds that the department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Medical Assistance benefits and institute a spend-down as there is no indication that claimant did not meet her spend-down during month. Although the spend-down amount appears to be correct, there is no indication in the file that claimant failed to meet her spend-down and therefore was not eligible for Medical Assistance benefits in the month of December 2008.

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 had a excess income for purposes of Medical Assistance benefits and opened a spend-down case for claimant based upon claimant's possession of that excess income for the month of December 2008. However, the department did not appropriately determine whether or not claimant had provided enough medical expenses to meet the spend-down.

Accordingly, the departments decision is **AFFIRMED** in terms of its' determination that claimant had a spend-down. However, there is no evidence that claimant did not meet the spend-down. Therefore, if claimant met the spend-down for the month of December 2008, then claimant should have had full Medicaid. The department is **ORDERED** to determine whether or

not claimant met the spend-down for the months of December 2008 and if she did to instate her Medical benefits for the month of December 2008 based upon her having met the spend-down.

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

Date Signed: May 19, 2010

Date Mailed: May 20, 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:

