

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: 2009-15122
Issue No: 2006, 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 13, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 conducted from Detroit, Michigan on August 13, 2009. The Claimant appeared and testified. Nereida Portillo, FIM, and Deborah LeSure, FIS, appeared on behalf of the Department.

ISSUES

- 1) Did the department properly propose the closure of claimant's Medicaid (MA) case for failure to provide verifications?
- 2) Did the department properly calculate the deductible for claimant's Medicaid (MA) benefits?

FINDINGS OF FACT

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

1. Claimant is an ongoing MA recipient in a group of one.

2. The department issued a Verification Checklist December 17, 2008 with a due date of December 29, 2008. (Department Exhibit 2 pg. 1)
3. The department did not receive the verifications by the due date.
4. On January 30, 2009, the department issued a notice that the MA case would close effective February 11, 2009.
5. Claimant requested a hearing on February 5, 2009 contesting the closure.
6. During a telephone conference on February 11, 2009, claimant agreed to fax in the verification of income and the department reinstated the MA case.
7. Claimant receives child foster care payments for two children.
8. Effective January 11, 2009, claimant received unemployment benefits in the amount of \$ 344 per week for 11 weeks. (Department Exhibit 1 pg. 4)
9. The department determined that claimant had a net income of \$812 per month.
10. As a result, the department determined that claimant had a deductible of \$ 437 per month. (Department Exhibit 1 pgs. 1-4)
11. Claimant contests the MA deductible amount.

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).

Verifications

The department periodically reevaluates cases to ensure that eligibility for program benefits continues. PAM 210. Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. PAM 105. Under PAM 210, the department is to allow clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. PAM 130.

In the present case, the department issued a verification checklist December 17, 2008 with a due date of December 29, 2008. While claimant did not return the verifications by the due date, she has since provided the information to the department and her MA case has been reinstated. Accordingly, there is no need for this ALJ to make a determination on the verification issue as it has been fully resolved and the department has since provided benefits requested.

MA Deductible

The Medical Assistance program was designed to assist needy persons with medical expenses. The State of Michigan has set guidelines for income, which determines if a MA group falls within the needy classification. Under PEM Items 544 and 545, an eligible Medical Assistance group (Group II FIP related) has income the same as or less than the “protected income level” plus medical insurance premiums as set forth in the policy contained in the program reference table. 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. A deductible 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. The department uses current and old medical obligations (old bills) as well as expenses for personal care services in the home to determine if a deductible was met. PEM 545.

In determining Group 2 FIP Related MA income eligibility, net income must be determined for the group by adding the calculated net income of each group member. Payments for foster care are excluded and the gross amount of unemployment benefits is counted. PEM 500. The group's net income is then divided by the prorate divisor (2.9 plus the number of dependents) resulting in the individual's prorated share of the group's net income. Finally, in order to determine the net income for a group of only one adult, multiply the individual's prorated share by 2.9. The result is adult fiscal group member's net income for purposes of determining eligibility. PEM 536. Income eligibility exists for a person requesting MA when the net income is below the monthly protected income level by shelter area. The monthly protected income level for a Medical Assistance group of one living in Wayne County is \$375 per month. RFT 200 and 240.

In the present case, claimant received unemployment compensation in the amount of \$344 every week. $\$344 \times 4 = \1376 gross income. The gross income was then divided by a prorate divisor of 4.9 (2.9 + 2 dependants) = \$280 as claimant's prorated share. The prorated share multiplied by 2.9 = \$812, the monthly net income.

Accordingly, claimant's net income \$812 exceeds the monthly protected income level of \$375 by \$437 per month. Claimant is consequently ineligible to receive Medical assistance.

However under the deductible program, if the claimant incurs medical expenses in excess of \$437 during the month she may then be eligible for Medical Assistance.

Claimant argues that she is unable to pay the deductible per month for her medical expenses, because of limited means. This Administrative Law Judge does sympathize with the claimant in the instance, but does not have the prerequisite jurisdiction to change or alter department policy and state law at the present time. This ALJ finds that the department has acted in accordance with department policy and law in determining the MA deductible of \$437.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated claimant's MA deductible in the February 2009 budget.

Accordingly, the Department's MA deductible determination is AFFIRMED.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/21/09

Date Mailed: 09/22/09

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.

2009-15122/CL

CL/dj

cc:

