

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: 2009-17632  
Issue No: 2014  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 9, 2010  
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 March 9, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly budget the claimant's Medical Assistance (MA) benefits and determine the claimant's children were excess income for the Healthy Kids program?

FINDINGS OF FACT

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

1. The claimant applied for MiChild and Healthy Kids medical coverage for his three children on January 25, 2009. (Department Exhibit 1 – 4).
2. The claimant is self-employed and submitted Self-Employment Income and Expense Statements for October, November and December of 2009. While the claimant did list

expenses, no receipts were provided to substantiate the expenses listed. (Department Exhibit 9 -19).

3. The department budgeted the MA case by taking the claimant's self-employment income and subtracting 25% for expenses. This resulted in averaged monthly earnings of \$16386.76, which made the claimant's children excess income for Healthy Kids. (Department Exhibit 6 – 8).

4. The claimant submitted a hearing request on February 13, 2009.

### 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).

Department policy states:

#### **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.

**Exception:** The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions. PEM, Item 500, p. 1.

### **Countable Self-Employment Income**

Countable earnings from self-employment equal the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts. See “Farming Expenses” below. PEM, Item 500, pp. 12-13.

Allowable expenses are the **higher** of:

- . 25% of the total proceeds, **or**
- . actual expenses if the client chooses to claim and verify the expenses. PEM, Item 500, p. 13.

### **Allowable Self-Employment Expenses**

Allow expenses include (also see “Room and Board”):

- . Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc. PEM, Item 500, p. 13.
- . Interest and principal on loans for equipment, real estate or income-producing property. PEM, Item 500, p. 13.
- . Insurance premiums on loans for equipment, real estate and other income-producing property. PEM, Item 500, p. 13.

- . Taxes paid on income-producing property. PEM, Item 500, p. 13.
- . Transportation costs while on the job (example: fuel), but NOT routine transportation to and from work. PEM, Item 500, p. 14.
- . Purchase of capital equipment. PEM, Item 500, p. 14.
- . A child care provider's cost of meals for children. Do NOT allow costs for the provider's own children. PEM, Item 500, p. 14.
- . Any other identifiable expense of producing self-employment income **except** those listed below. PEM, Item 500, p. 14.

Do NOT deduct the following from self-employment income:

- . Depreciation on equipment, real estate or other capital investments
- . A net loss from a previous period
- . Federal, state and local income taxes
- . Personal entertainment or other personal business expenses
- . Money set aside for retirement. PEM, Item 500, p. 14.

Department policy provides that MA is available to a person who is under age 19 when net income does not exceed 150% of the poverty level. PEM 131. The income limits are specified in RFT 246. For the time period in question, the income limits for the Healthy Kids MA program was 150% of the poverty level, or \$2200.

The claimant applied for Healthy Kids for his three children on January 25, 2009. With that application, he included Self-Employment Income and Expense Statements from October, November and December, 2009. This form states that allowable expenses for self-employment will be the higher of 25% of total income or actual DHS allowable expenses, if claimed and

verified. This is also in accordance with PEM 500. In this case, the claimant did submit a listing of expenses, but no actual receipts to substantiate the expenses. Therefore, the department gave the claimant the 25% deduction of his total income. This brought his average net income per month to \$16386.76, which was well in excess of the RFT limits of \$2200. Thus, the department properly denied the claimant's MA application for his children.

It is noted that the claimant testified during the hearing, that he does keep receipts for his expenses. Thus, this Administrative Law Judge informed the claimant he should reapply for benefits for his children and include receipts of his actual expenses, which may bring his net income within policy limits to allow the department to approve the children for Healthy Kids MA coverage.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly budgeted the claimant's MA benefits and determined the claimant's children were excess income for the Healthy Kids program.

Accordingly, the department's actions are UPHELD. SO ORDERED.

/s/  
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Suzanne L. Keegstra  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: April 16, 2010

Date Mailed: April 22, 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.

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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.

SLK [REDACTED]

cc:

[REDACTED]