

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: 2009-1806

Issue No: 2026

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 29, 2009

Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 conference evidentiary hearing was held on July 29, 2009.

ISSUE

Did the Department of Human Services (DHS) properly calculate claimant's Medical Assistance (MA) 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) At all relevant times prior to the action which triggered the negative action and hearing request herein, claimant and claimant's spouse were MA recipients.

(2) The previous MA category claimant and claimant's spouse were on was Transitional MA.

(3) Claimant and claimant's spouse have two adopted children who are on the adoption subsidy program. The income from the children is not counted. Both children have medical assistance based upon the adoption subsidy program. There is no issue herein regarding the children or the income.

(4) Claimant's transitional MA expired at review in September, 2008. At that time, the department recalculated MA eligibility using a Healthy Kids Group II FIP-related category. The budget shows that claimants are eligible for a spend-down case at \$279.

(5) Both claimant and claimant's spouse's expenses may be paid towards either individual's spend-down.

(6) The department issued notice on 9/15/08 informing the claimant that effective 10/1/08 the case will change to a deductible.

(7) On 10/17/08, claimant requested 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).

Applicable policy and procedure to the case herein is found in PEM Items 106, 111, 135, and 647.

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.

At the administrative hearing held in this case, claimant did not dispute the income and/or the expenses calculated on the MA budget. This budget is not an easy budget to understand as it includes proration on behalf of the dependents. However, a review of the budget shows that the spend-down calculated for claimant is \$279 per month as it is the monthly excess income. Under federal and State law, claimants must meet this amount in any month at issue in order to trigger full and active MA.

After careful review of the substantial and credible evidence on the whole record, this ALJ finds that the department correctly determined claimant’s deductible and thus, the department’s calculation 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’s actions were correct.

Accordingly, the department's calculation of the MA deductible is hereby UPHeld.

Due to claimant's request for further explanation(s), this Administrative Law Judge ORDERS the department to print and mail to claimant copies of the items cited on the hearing summary as applicable to the case herein: PEM Items 106, 111, 135, and 647. Claimant is advised that these items as well as others that are directly or indirectly related to claimant's case may be obtained on the internet.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 13, 2009

Date Mailed: August 14, 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 mailing date of the rehearing decision.

JS/cv

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