

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.: 2009-27885
Issue No.: 2026/4013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 17, 2010
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on March 17, 2010. The Claimant personally appeared and testified.

ISSUE

Did the Department properly figure her Medical Assistance (MA)?

FINDINGS OF FACT

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

1. On March 30, 2009, ALJ [REDACTED] ruled that the claimant was entitled to MA, based on disability, and State Disability Assistance (SDA).
2. Subsequently, the department found that the claimant's husband, [REDACTED], lived in the home with the claimant.

3. The department used the “information” it had concerning the claimant’s husband, denied the claimant’s SDA and placed her on a spend down with a deductible of \$758.00 per month.
4. On April 28, 2009, the Claimant filed a request for 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 (formerly known as the Family Independence Agency) 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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the Claimant questions the deductible applied to her MA and the rejection of her SDA because of her husband’s income.

LIVING WITH

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Living with others means sharing a home where family members usually sleep, **except** for temporary absences. A temporarily absent person is considered in the home. (PEM 211, p.2)

Here, the evidence does not show that the claimant's husband lives with the claimant. The Office of Inspector General testified as to the husband's use of the claimant's address on his tax returns as proof of his residence with the claimant.

The claimant was accompanied by [REDACTED] who testified that she helped to "take care" of the claimant and that the claimant's husband no longer resided with the claimant and had not done so since the end of 2006.

This ALJ does not find the department's testimony pertaining to the claimant's husband's tax records to be probative and finds the evidence presented by the claimant and [REDACTED] to be controlling.

The department further used the husband's income to disallow the claimant's SDA. The same argument as stated above also disallows the husband's income in figuring the claimant's SDA

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to reinstate the claimant's MA back to the date of closure, and to replace any lost benefits. The department is further ORDERED to reinstate the claimant's SDA from the date of closure and replace any lost benefits.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/13/2010

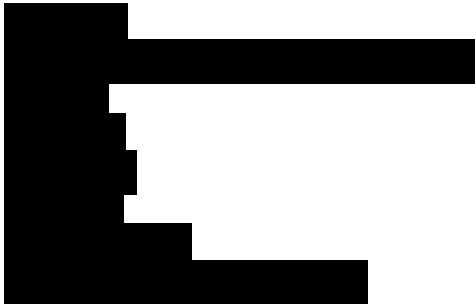
Date Mailed: 4/13/2010

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 receipt 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.

MJB/jlg

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