

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: 2009-30210

Issue No: 2026-3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 1, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 October 1, 2009. Claimant appeared and testified.

ISSUE

Did the Department properly determine the Claimant to be eligible for spend-down MA only? Did the Department properly calculate the Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On May 4, 2009 the Claimant applied for FAP and MA.
2. On June 3, 2009 the Department completed an MA budget for the Claimant. The Department determined based on the Claimant's income the Claimant was only eligible

for an MA spend-down case. The Department also determined the Claimant was only eligible for \$14 in FAP.

3. On July 1, 2009 the Claimant's daughter's income SSA income stopped and the Department re-determined the FAP amount and supplemented the Claimant for the difference for the month of July.

4. On July 13, 2009 Claimant filed a request for hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Claimant verbally withdrew his request regarding the FAP benefits at the start of the hearing. The Claimant stated he no longer wished to have a hearing regarding his FAP benefits.

Michigan provides MA for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant falls under Group 2 MA classification which consists of client's whose eligibility results from the state designating types of individuals as "medically needy." MCL 400.106; MSA 16.490 (16), MCL 400.107; MSA 16.490(17), and PEM, Item 105.

In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protected basic maintenance level. Department policy sets forth the method for determining the protected basic maintenance level by considering: (1) the protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services if determining eligibility for clients in adult-care homes. The protected income level is a set amount for non-medical needs such as shelter, food and incidental expenses. In all other cases other than those involving long-term care, the appropriate protected income level must be taken from PRT 240. PEM Item 545, and 42 CFR 435.811 through 435.814. If the individual's income exceeds the protected income level, the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as "spend-down." Policy requires the agency to count and budget all income received that is not specifically excluded. There are three main types of income: countable earned, countable unearned and excluded.

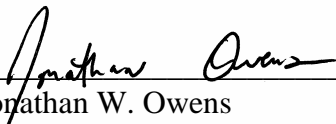
In the present case, Claimant's total income is \$1250. The Claimant's fiscal group income for himself is \$1250. After subtracting the total needs of \$375 the Claimant would be left with \$875 spend-down amount for himself. The Department improperly completed a budget by failing to remove the \$96 dollar Medicare premium paid by the Claimant which would have actually resulted in a spend-down amount of \$779. The Claimant would only qualify for MA under a spend-down case.

Therefore the Department did properly determine the Claimant eligible for MA through a spend-down case but incorrectly determined the amount of the spend-down.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to properly determine the Claimant's coverage.

Accordingly the Department's decision is hereby REVERSED and the Department shall complete a new MA budget removing the Medicare expense and recalculate the spend-down amount.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/03/09

Date Mailed: 11/04/09

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

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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.

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