

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: 2009-3542
Issue No: 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 July 23, 2009.

ISSUES

- (1) Was excess income established?
- (2) Are exceptions to DHS policy requirements allowed by ALJs?
- (3) Must ALJs follow DHS policy requirements?

FINDINGS OF FACT

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

- (1) Negative action: Medicaid termination on September 8, 2008 based on excess income per PEM 500 and PRT 240.

(2) Claimant agrees that the DHS followed policy requirements correctly, but wants an exception based on his financial hardship.

(3) Claimant claims 2009 federal poverty guidelines, federal registry, January 23, 2009, exempts him from DHS policy requirements.

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).

Facts above are undisputed.

Issue 1

Based on the undisputed facts above, the DHS correctly determined excess income in the claimant's case.

Issue 2

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280.

Therefore, as a matter of law, this ALJ has no legal authority to grant the claimant's requested exception to DHS policy requirements.

Issue 3

PEM 500, page 44, provides the legal base required to be followed by ALJs as follows:

Social Security Act, Sections 1902(a)(10) 1931.

42 CFR 435, Subparts H and I.

MCL 400.106.

Therefore, as mentioned above under Issue 2, this ALJ is required to follow DHS policy requirements, and under the above legal base, claimant's proposed 2009 Federal Poverty Guidelines, is not shown in the legal base. Therefore, his guidelines are irrelevant in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that

- (1) Excess income was correctly determined,
- (2) Exceptions to DHS policy requirements are not allowed by ALJs, and
- (3) ALJs must follow DHS policy requirements.

Accordingly, Medicaid denial is UPHELD.

/s/

William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 19, 2009

Date Mailed: August 20, 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 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.

WAS/tg

cc:

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