

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: 2009-36750

Issue No: 2026

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 1, 2010

St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. 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 hearing was held on April 1, 2010.

ISSUE

Did the Department of Human Services (DHS) properly calculate claimant's 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, claimant and his spouse have household income of RSDI of [REDACTED] per month.

(2) At review, the department determined that it had incorrectly calculated the fiscal group at 1 when in fact it should be 2. The spend-down amount changed from [REDACTED] per month to [REDACTED].

(3) The department corrected itself and issued notices to claimant that his correct spend-down along with his spouse is [REDACTED] per month.

(4) Prior to the correction, claimant disputed the previous income and requested a hearing on 7/21/09.

(5) The correct protected income limit for a group size of 2 is [REDACTED] resulting in the [REDACTED] spend-down per month. Exhibit 2. Claimant and his spouse can combine their medical expenses to meet the spend-down. The spend-down does not need to be met by both individuals but can be met in combination together triggering full MA.

(6) Claimant does not dispute the income.

(7) Claimant's expenses exceed his income.

(8) The Notice was issued on 7/1/09; claimant requested a hearing on 7/21/09 pursuant to information on the Hearing Summary.

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 of the case herein states in part:

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Each calendar month is a separate spend-down period.

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. PAM 130 explains verification and timeliness standards. PEM, Item 545. p. 9.

You must redetermine eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. PEM, Item 545, p. 9.

For all persons in this item, determine countable income as follows:

- . RSDI, Railroad Retirement and U.S. Civil Service and Federal Employee Retirement System

Use the countable amount per PEM 500 and 530. Deduct Medicare premiums actually withheld by:

- .. including the L/H patient's premium along with other health insurance premiums, and
- .. subtracting the premium for others (example, the community spouse) from their unearned income.

Exception: Do **not** use the following special exclusion policies regarding RSDI. These policies only apply to eligibility, **not** post-eligibility patient-pay amounts.

- .. PEM 155, “**503 COUNTABLE RSDI**”
- .. PEM 156, “**COUNTABLE RSDI**”
- .. PEM 157, “**COUNTABLE RSDI**”
- .. PEM 158, “**COUNTABLE RSDI**”

Note: The checks of clients on Buy-In increase about 3 months after Buy-In is initiated. Re-compute the PPA when the client’s check actually changes. PAM 810 has information about Buy-In. PEM, Item 546, pp. 1-2.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). PEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). PEM 545.

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.

Under the above cited authority, the department's budget shows the deductible to the [REDACTED] per month. Claimant argues that his expenses exceed his income. Un-refuted evidence on the record is that the expenses do exceed the household income. However, claimant requests deductions for utilities and food which are not allowed on the budget and are not permitted as deductions under policy and procedure. As such, the department is not able to change the budget to reflect claimant's utilities or approve expenses.

The purview of an Administrative Law Judge is to review the department's actions and to make a determination if those actions are correct under policy and procedure. Administrative law judges have no authority to grant exceptions based upon individual circumstances.

This Administrative Law Judge has reviewed the evidentiary record and finds that the department has correctly applied its policy as it pertains to the facts herein. As such, this Administrative Law Judge must uphold the department's actions.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's actions were correct.

Accordingly, the department's calculation of claimant's deductible was correct and is hereby upheld.

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

Date Signed: April 28, 2010

Date Mailed: April 30, 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 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.

JS/lk

cc:

