

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: 2009-9544  
Issue No: 2014  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 20, 2009  
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 20, 2009.

ISSUE

Whether the department properly determined claimant's eligibility for Medical Assistance (MA).

FINDINGS OF FACT

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

- (1) During November 2008, claimant was a recipient of Medical Assistance. Her case was due for review.
- (2) November 17, 2008, the department received claimant's application for review, MICHILD and Healthy Kids application (DCH-0373). On the application, claimant stated gross

wages for herself of [REDACTED] per month and gross wages for the other adult in the home of [REDACTED]. Department Exhibit A, pgs 1-4.

(3) November 25, 2008, the department prepared an MA budget using the earned income as stated on claimant's review application. Claimant had excess income to qualify for Healthy Kids. Net income for MA purposes was determined to be [REDACTED]. One hundred and fifty percent of the poverty limit for the family was \$ [REDACTED]. Department Exhibit A, pgs 5-7.

(4) November 25, 2008, the department sent claimant written notice that Healthy Kids assistance would terminate. Department Exhibit A, pgs 8-9.

### 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).

Department manuals provide the following policy statements and instructions for caseworkers:

MA is available to a person who is under age 19 when net income does not exceed 150 percent of the poverty level. A person age 16 to 18 years of age with net income between 101 and 150 percent of the poverty level is a Healthy Kids expansion recipient. Bridges Eligibility Manual (BEM) 131; Social Security Act, Section 1912(a)(10)(A)(i)(III); 1902@(2), 1920; Deficit Reduction Act of 2005.

Gross income is the amount of income before any deductions such as taxes or garnishments. Count all income that is not specifically excluded. Gross income includes amounts withheld from income which are any of the following:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Examples of funds withheld, but are still considered part of gross income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court ordered or voluntary child support payments.

This list is not all inclusive. Bridges Eligibility Manual (BEM) 500; Social Security Act Sections 1902(a)(10), 1931; 42 CFR 435, Subparts H and I; MCL 400.106.

In this case, the department appropriately determined claimant had excess income to qualify for Healthy Kids. At hearing, claimant testified that her husband's income is not necessarily the amount he receives each month. He works on a commission and if he does not make commissions equal to the amount is paid i.e. [REDACTED], he must repay the money to his employer in monthly payments. The claimant asserts that the amount of the repayments should be deducted from the gross earnings. This view is not consistent with department policy which requires that the gross amount of the income be included and that deduction for voluntary

payments, repayment of debts, or to meet a legal obligation cannot be deducted. Accordingly, the department has met its burden of proof and its action must be upheld. Finding of Fact 1-4; BEM 131, 5001.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, UPHELD.

/s/ \_\_\_\_\_  
Jana A. Bachman  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 18, 2010

Date Mailed: August 19, 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.

JAB/db

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