

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: 2010-10664
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 15, 2010
Grand Traverse 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 June 15, 2010. Claimant was represented by [REDACTED].

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) On or about July 2009, claimant applied for MA.
- (2) The department prepared MA budgets for the months of July, August, and months following.

(3) Claimant's total countable income included [REDACTED] in [REDACTED], [REDACTED] in spouse's [REDACTED], and [REDACTED] in a p [REDACTED] making a total countable income of [REDACTED]

(4) A standard [REDACTED] deductible taken leaving [REDACTED] countable for MA purposes.

(5) The MA monthly Protected Income Level for one of [REDACTED] was deducted leaving a monthly deductible of [REDACTED]

(6) Claimant met his monthly deductible for the month of July 2009 and MA was authorized for that month. Department Exhibit A, pgs 1-7.

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:

When determining eligibility for MA, household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. [REDACTED] and [REDACTED] are not excluded and must be counted when determining MA eligibility. The MA program provides for a standard [REDACTED] deduction from unearned income. [REDACTED] dollars plus one half of earned income is deducted. A deduction

may be included for expenses that enable an impaired or blind person to work and for guardianship or conservatorship fees. An allocation from income may be made to non-SSI children living with the household. Bridges Eligibility Manual (BEM) 500, 541.

Federal regulations at 42 CFR 435. 811, .814, .831(C)(I), and .1007 provide standards for MA eligibility. The department, in compliance with these regulations, has prepared income tables that are set forth at Reference Table (RFT) 240 and specify the amount of income a household may have to qualify for MA. These maximum income limits are referred to as the Protected Income Levels. MA policy provides for additions to the Protected Income Level. In addition is allowed if the individual or household pays health insurance premiums. An addition may also be made for the cost of remedial services. The group's Protected Income Level is based in part on the fiscal group size. BEM 544.

Monthly deductible is a process by which a person or household with excess income may qualify for MA coverage. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the monthly deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month it wants coverage. Medical expenses may be allowed when: (a) the expenses are incurred by an MA group member; and (b) the MA individual or household is responsible for payment; and (c) they have not been previously used to meet a monthly deductible. The bills may be old or new expenses. BEM 545.

In this case, claimant asserted that his wife's income should not have been included when determining claimant's MA eligibility. This view is not consistent with department policy which provides that a non-waiver client's income and asset group consists of the client and his spouse. The policy does not exclude the waiver client from the group for the non-waiver spouse.

Therefore, the department properly determined claimant's countable income for MA purposes.

Finding of Fact 1-6; BEM 211; BEM 530.

In this case, the department determined that claimant was a group of one for purposes of determining his monthly Protected Income Level. This is not consistent with department policy which provides that claimant is part of a group of two, claimant and his spouse. Accordingly, the department should have used the Protected Income Level for a group of two, rather than a group of one. This resulted in claimant's monthly deductible being set at too high a figure.

Accordingly, the department has not met its burden of proof in this area and its action cannot be upheld. Finding of Fact 1-6; BEM 211; BEM 530.

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 countable income for MA purposes, but did not properly determine claimant's monthly Protected Income Level.

Accordingly, the department's action is REVERSED in part. The department is to initiate a determination of claimant's financial eligibility consistent with department policy and this Decision and Order.

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

Date Signed: July 27, 2010

Date Mailed: July 28, 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.

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