

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: 2010-14212

Issue No: 2014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 4, 2010

St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 May 4, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant had excess income for purposes of Medical Assistance and a deductible 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) Claimant currently has an active Medical Assistance deductible spend-down case.
- (2) Claimant's monthly household income is \$ [REDACTED] in RSDI income.

(3) The department, after allowing deductions of \$ [REDACTED] in a protected income limit of \$ [REDACTED], determined that claimant had an excess income for purposes of Medical Assistance and a deductible spend-down in the amount of \$ [REDACTED] per month.

(4) On October 27, 2009, the department caseworker sent claimant notice that the Medicaid benefits would be denied based upon excess income and the case would be transferred a deductible spend-down effective November 1, 2009.

(5) On November 23, 2009, claimant's representative filed a request for a hearing to contest the department's negative action.

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).

Michigan provides Medical Assistance for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because he receives RSDI income, which consists of claimant's eligibility resulting from a state designating certain type's individuals who's medically needy. BEM, Item 105. In order to qualify for Group 2 MA, a medically needy client must have income that is equal to or less than the basic protected monthly income level. The department sets forth a method for determining the protected levels by considering:

1. The protected income level

2. the amount diverted to dependent
3. health insurance for premiums
4. remedial services in determining eligibility for claimant's in adult care homes.

When the claimant's income exceeds the protected income level and the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a deductible spend-down. Policy requires the department to count and budget all income received and is not specifically excluded. There are three main types of income: Countable earned, countable un-earned, and excluded. Earned income means income received from another person or organization or from self-employed for duties that were performed for remuneration or profit. Un-earned income is any income that is not earned. The amount of income counted may be more than the amount the person actually received, because it is the amount before deductions are taken, including deductions for taxes and garnishments. The amount before any deductions are taken is called the gross amount. BEM, Item 500, p. 1. The department, in the instant case, calculated the claimant's income based upon her receipt of \$ [REDACTED] in gross unearned income from Social Security RSDI income.

After giving claimant the appropriate \$20 deduction claimant was left with a net monthly income of \$ [REDACTED] (dept. exhibit 1) The Administrative Law Judge has reviewed the records and the exhibits and finds that the fiscal Group's net income after being provided with the most beneficial un-earned income deduction was \$ [REDACTED] in net monthly income. Federal Regulations at 42 CFR 435.831 provides standards for the determination of the Medical Assistance monthly protected income levels. The department, in this case, is in compliance with the program reference, tables, charts & schedules, table 240-1. Table 240-1 indicates that the claimant's monthly protected income level for a person in claimant's fiscal group is, in claimant's situation

for a group of 1 person, is \$ [REDACTED] per month, which leaves him with excess income in the amount of \$ [REDACTED]. The department's determination that claimant had excess income for purposes of Medical Assistance eligibility is correct.

Deductible spend-down is a process which allows a customer with excess income to become eligible for Group 2 MA, if sufficient allowable medical expenses are incurred. BEM, Item 545, p. 1. Meeting the deductible spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down/deductible for the calendar month tested. BEM, Item 545, p. 9. The Group must report expenses by the last day of the 3rd month following the month it wants MA coverage for that period. BEM, Item 130, explains verification and time limit standards. BEM, Item 545, p. 9. The department's determination that claimant had a spend-down of \$ [REDACTED] per month is correct.

Claimant testified on the record that the spend-down is unfair and too expensive because for 1, her father pays his spend-down he will not have enough money to pay anything beyond his rent.

This Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant had excess income for purposes Medical Assistance benefit eligibility and when it determined that claimant had a Medicaid deductible spend-down in the amount of \$ [REDACTED] per month.

Claimant, in this case, makes a compelling equitable argument to be excused from department policy.

Equitable Arguments (MBM)

The claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

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.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge has no equity powers in this case and cannot act outside of department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it cancelled claimant's Medical Assistance benefits and opened a spend-down case for claimant in the amount of \$ [REDACTED] per month based upon claimant's possession of excess income.

Accordingly, the department's decision is AFFIRMED.

