

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-42861
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 15, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

REHEARING / RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MCL 400.37; and MAC R 400.919 upon an Order for Rehearing regarding the Claimant's Medicaid Deductible case. After due notice, a hearing was held on September 15, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly determine the Claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. On October 31, 2009, the Department completed a review and determined the Claimant had excess income for MA and opened a spend-down case.
2. On April 12, 2010 the Claimant requested a hearing regarding her MA changing to a spend-down.

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 (formerly known as the Family Independence Agency) 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).

In the present case, Claimant is protesting the Department's determination regarding her Medicaid eligibility. The Claimant's Medicaid case review took place on October 31, 2009 and resulted in the Claimant being found ineligible for MA and a spend-down case being opened. The Claimant requested a hearing on these matters on April 12, 2010

The Claimant's hearing request, protesting her MA is untimely in regards to the original action taken by the Department on October 31, 2009. Clients have 90 days from the date of the Department's negative action to request an administrative hearing. According to MAC R 400.904(4), a client is given 90 days from the mailing of the proper notice of case action to request a hearing. Therefore, this Administrative Law Judge (ALJ) is only able to consider actions taken by the Department in the preceding 90 days from the Claimant's hearing request filed on April 12, 2010. Therefore, this ALJ will consider whether or not the Claimant was properly determined to be in a spend-down beginning January 2010.

Michigan provides MA for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant falls under Group 2 MA classification which consists of client's whose eligibility results from the state designating types of individuals as "medically needy." MCL 400.106; MSA 16.490 (16), MCL 400.107; MSA 16.490(17), and PEM, Item 105.

In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protected basic maintenance level. Department policy sets forth the method for determining the protected basic maintenance level by considering: (1) the protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services if determining eligibility for clients in adult-care homes. The protected income level is a set amount for non-medical needs such as shelter, food and incidental expenses. In all other cases other than those involving long-term care, the appropriate protected income level must be taken from PRT 240. PEM Item 545, and 42 CFR 435.811 through 435.814. If the individual's income exceeds the protected income level, the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as "spend-down." Policy requires the agency to count and budget all income received that is not specifically excluded. There are three main types of income: countable earned, countable unearned and excluded.

In the present case, Claimant's total income is \$1044, according to the Departments budget. The Department indicated the Claimant receives \$806 in SSA benefits and \$238 in child support benefits. The Claimant, however, testified she receives \$896 in SSA benefit and only \$234 in child support. The amount of income allowed for an individual to receive MA without a spend-down is \$903. Even using the Claimant's version of income, the total income in her household would be \$1040, and countable

income would be \$1020. Since the Claimant's income exceeds the maximum allowed for MA, a MA spend-down case would be appropriate.

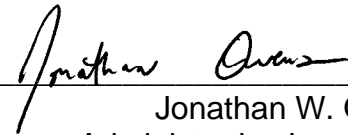
When calculating the amount of spend-down, the Department must total the Claimant's income, which in this case is being questioned by the Claimant. The Department determined, based upon an income of \$1044, the Claimant would have a total countable income of \$1024. After subtracting the total needs of \$375, the Claimant would be left with \$649 spend-down amount. However, this amount is disputed by the Claimant who asserts her child support is only \$234 and not \$238. This ALJ finds the Claimant's testimony credible and finds the Department will need to re-determine the Claimant's MA spend-down. This ALJ notes, even using the Claimant's asserted household income, the Claimant would still have a spend-down of \$645.

DECISION AND ORDER

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

The Department's decision regarding the Claimant eligibility for MA, based upon a spend-down, is UPHELD.

However, the Department's determination regarding the amount of the spend-down amount is REVERSED. The Department is ORDERED to recalculate the Claimant's spend-down back to January 2010.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/17/10

Date Mailed: 09/17/10

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.

JWO/dj

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