

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: 2010-49118  
Issue No: 2014  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
September 21, 2010  
Wayne 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 September 21, 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 (MA-P) 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] unearned income deduction and a protected income limit of \$ [REDACTED] determine that claimant had excess income for purposes of Medical Assistance and a deductible spend-down in the amount \$ [REDACTED] per month.
- (4) On December 12, 2009, the department caseworker sent claimant notice that the Medicaid benefits would be denied based upon excess income

and the case would be transferred to deductible spend-down effective November 1, 2009.

- (5) On November 4, 2009, the claimant 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 MA for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because she receives RSDI income, which consists of clients whose eligibility results from the state designating certain types of individuals as 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.

Department policy sets forth a method for determining the basis maintenance level by considering:

1. The protected income level,
2. The amount diverted to dependents,
3. Health insurance and premiums, and
4. Remedial services if determining the eligibility for claimants in adult care homes.

If the claimant's income exceeds the protected income level, the excess income must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a deductible spend-down. The policy requires the department 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. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted may be more than the amount a person actually receives, because it is the amount before deductions are taken, including the 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 claimant's income based upon receipt of \$ [REDACTED] per month in RSDI income from the Social Security Administration.

After giving claimant the appropriate \$ [REDACTED] earned and unearned expense deductions, the claimant was receiving \$ [REDACTED] per month in net monthly income. The department also gave claimant a deduction of \$ [REDACTED] for an insurance premium which left a net income of \$ [REDACTED]. The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income after being provided with the most beneficial unearned income deductions is \$ [REDACTED] per month. Federal regulations at 42 CFR 435.831 provide standards for the determination of the MA monthly protected income levels. The department, in this case, is in compliance with the Program Reference Manual, Tables, Charts, and Schedules, Table 240-1. Table 240-1 indicates that the claimant's monthly protected income level for claimant's fiscal group of one person is \$ [REDACTED] per month, which leaves her with an excess income in the amount of \$ [REDACTED]. The department's determination that claimant has excess income for purposes of Medical Assistance eligibility is correct.

Deductible spend-down is a process which allows the 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 spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down/deductible amount for the calendar month tested. BEM, Item 545, p. 9. The group must report expenses by the last day of the third month following the month it wants MA coverage for. BEM, Item 103 explains verification and timeliness standards. BEM, Item 545, p. 9.

The department's determination that claimant had a spend-down in the amount of \$ [REDACTED] per month is correct based upon the information contained in the file.

Claimant testified on the record that the spend-down is unfair and too expensive because she is on dialysis and has other bills and cannot afford to pay her spend-down and all of her other bills.

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).

Therefore, the 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 of Medical Assistance benefit eligibility and when it determined that claimant had a monthly deductible spend-down in the amount of \$ [REDACTED]. 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 has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Medical Assistance benefits and open a spend-down case for claimant in the amount \$ [REDACTED] per month based upon claimant's possession of excess income.

Accordingly, the department's decision is AFFIRMED.

Landis

/s/

Y. Lain

Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: October 13, 2010

Date Mailed: October 13, 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.

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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.

LYL/alc

cc:

[REDACTED]