

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: 2010-50025
Issue No: 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 3, 2010
Clare 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 November 3, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's Medical Assistance (MA-P) benefits based upon its determination that claimant has excess income 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) On May 20, 2010, claimant filed an application for Medical Assistance.
- (2) On June 28, 2010, claimant was denied Medical Assistance based upon excess income, but approved for a deductible Medicaid case in the amount of \$ [REDACTED]
- (3) On June 28, 2010, the department case worker sent claimant notice that he was denied Medical Assistance based upon excess income and approved for a deductible Medical Assistance case effective May 1, 2010.

- (4) On July 14, 2010, 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 eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification which consists of clients whose eligibility results from the state designating certain types of individuals as medically needy. PEM, 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 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. PEM, Item 500, p. 1.

In the instant case, the department calculated claimant's income based upon receipt of \$ [REDACTED] per month in gross income. Claimant was receiving SSI until February 2010.

Claimant's SSI was cancelled and RSDI case was opened due to the Social Security Administration which resulted in an increase in claimant's income to \$ [REDACTED] per month.

After giving claimant the appropriate earned and unearned expense deductions, the claimant was receiving \$ [REDACTED] per month in net monthly income. Claimant was also receiving \$ [REDACTED] in earned income per month through his wife. Claimant was given the general earned income deduction of \$ [REDACTED] plus a half of disregard for a total of \$ [REDACTED] in net earned income. 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] (\$ [REDACTED] in net earned income plus \$ [REDACTED] in net unearned income) per month. Federal regulations at 42 CFR 435.831 provide standards for the determination of the MA monthly protected income levels. The department 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 two people is \$ [REDACTED] \$ [REDACTED] per month in net income minus the total needs of \$ [REDACTED] equals excess income in the amount of \$ [REDACTED]. The number was rounded to \$ [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. PEM, Item 545, p. 1. Meeting the spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down amount for the calendar month tested. PEM, 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. PEM, Item 130 explains verification and timeliness standards. PEM, 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's allegation that the spend-down is too expensive and unfair because of his other expenses is a compelling, equitable argument to be excused from the department's program policy requirement.

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. 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]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did appropriately determine that claimant had excess income for purposes of Medical Assistance benefit eligibility. The department properly determined that claimant has a deductible spend-down of \$ [REDACTED]

Accordingly, the department's decision is AFFIRMED.

_____/s/_____
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 10, 2010

Date Mailed: November 12, 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

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