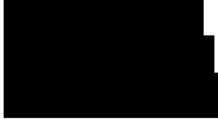


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-8351
Issue No: 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 8, 2010
Genesee 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 July 8, 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 had 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) Claimant was receiving Medical Assistance benefits.
- (2) The claimant's Adult Medical Assistance was reviewed and updated on the new computer system BRIDGES on October 6, 2009.
- (3) The BRIDGES system did determine that claimant has a Medical Assistance excess income for full Medical Assistance eligibility and a deductible spend-down.
- (4) On October 21, 2009, the department caseworker sent claimant notice that she would have a spend-down effective December 1, 2009.
- (5) On October 30, 2009, 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Michigan provides Medical Assistance 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. 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 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. Sometimes policy deems someone's income (or a portion of income) available to another person. Deeming rules are programmed into Bridges and deemed amounts are automatically calculated. BEM, 503, page 4 **Child Support** is money paid by an absent parent(s) for the living expenses of a child(ren). Medical, dental, child care and educational expenses may also be included. Court-ordered child support may be either **certified** or **direct**. Certified support is retained by the state due to the child's FIP activity. Direct support is paid to

the client. Child support is income to the child for whom the support is paid. BEM, 503, page 5. Gross income includes amounts withheld from income which are any of the following:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered part of gross income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments. BEM, Item 500, page 3.

In the instant case, the Department determined that claimant was receiving monthly RSDI income of \$ [REDACTED] per SOLQ. Claimant pays out of state child support in the amount of \$ [REDACTED] monthly that is deducted from RSDI income. The department determined that claimant is ineligible to receive Ad-Care/QMB because of excess monthly income. The department, in the instant case, calculated the claimant's income based upon his receipt of \$ [REDACTED] in gross unearned income from Social Security RSDI income.

After giving claimant the appropriate \$ [REDACTED] deduction claimant was left with a net monthly income of \$ [REDACTED] (Department Exhibit C) 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 Manual, 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.

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 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.

Accordingly, the department's decision is AFFIRMED.

Landis

/s/

Y. Lain

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

Date Signed: August 31, 2010

Date Mailed: September 2, 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 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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