

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: 2010-19997

Issue No: 2014, 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 16, 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, an in-person hearing was held on March 16, 2010. Claimant personally appeared and testified. Claimant's husband

[REDACTED]

[REDACTED]

ISSUES

(1) Did the Department of Human Services (the department) properly deny claimant's car repair payments?

(2) Did the Department of Human Services (the department) properly determine that claimant was not eligible to receive Medical Assistance (MA-P) benefits and had a deductible spend-down case?

(3) Did the department determine the appropriate amount of claimant's Food Assistance Program (FAP) benefits?

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 receives full Medical Assistance benefits based upon her receipt of SSI benefits.

(2) Claimant's husband is currently receiving Medical Assistance benefits with a monthly deductible spend-down of \$ [REDACTED] and Medicare QMB.

(3) Both claimants received a monthly Food Assistance Program benefits in the amount of [REDACTED]

(4) The claimant's are disputing the Medical Assistance co-pay amount for claimant's husband and the amount of Food Assistance available to them.

(5) Claimant also requested assistance with a car repair but was denied because the claimant's were unemployed and there were no children on their current Food Assistance Program case.

(6) On January 21, 2010, claimant filed a request for a hearing to contest the programs.

CONCLUSIONS OF LAW

(1) The Department of Human Services assists families to achieve self-sufficiency. Direct Support Services are goods and services provided families achieve self-sufficiency. Direct Support Services include employment support services and family support service that directly correlate to removing an employment related barrier. There is no entitlement for Direct Support Services. The decision to authorize Direct Support Services is within the discretion of the Department of Human Services or the Michigan Works Agency. Employment Support Services

include but are not limited to, transportation, special clothing, tools, physical examinations, vehicle purchases, and vehicle repair. BEM, Item 232, p. 1. Employment support services are available to families receiving Medical Assistance and Food Assistance Program benefits only if all of these apply:

- No other resources available
- The family is applying for or receiving child day care, Medical Assistance or Food Assistance Program benefits
- The CDC, MA or FAP recipient did not receive Direct Support Services for more than 4 consecutive months.

The department is authorized to make vehicle repairs for each participant for a vehicle that is a primary means of transportation for employment related activities, even if public transportation is available. The total DHS-MWA cost of repairs may not exceed \$900 including any repairs done in the previous 12 months. Clients may contribute any amount over \$900 prior to DHS payment. BEM, Item 232, p. 11.

In the instant case, neither claimant nor her husband were working and did not have any children in their Food Assistance Program case. There is no entitlement to vehicle repair and therefore, this Administrative Law Judge does not have jurisdiction to overturn the department's decision to deny claimant's request for vehicle repairs.

(2) 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's husband qualified under the Group 2 classification because of his receipt of 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 protected 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 Claimant's in adult care homes.

If the claimant'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 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.

The department, in the instant case, calculated claimant's income based upon his receipt of \$ [REDACTED] is RSDI income. The department determined that claimant had \$ [REDACTED] in net income based upon a budget contained at exhibit 3. The budget indicated that claimant's husband had \$ [REDACTED] in total net income and counted individuals in the fiscal group as 2 persons. The department determined that the income limit and protected income level for a 2 person fiscal groups in claimant's circumstances was \$ [REDACTED] [REDACTED] 4, which was the deductible amount. However, the department was unable to determine how it came up with the \$ [REDACTED] per month in total net income. The family income equals \$ [REDACTED] in RSDI income for the husband, \$ [REDACTED] in SSI income for the claimant and \$ [REDACTED] in RSDI for claimant, which equals \$ [REDACTED] per month in gross unearned income. The department did not establish that it was in compliance with the department policy because it was unable to explain how it made the determination that claimant's husband had excess income for purposes of Medical Assistance benefits and a deductible spend-down. This Administrative Law Judge finds that claimant did have excess income based upon the fact of a fiscal group of 2 persons has an income limit of \$ [REDACTED] but the department did not determine how it determined that claimant and her husband had \$ [REDACTED] per month in total net income.

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.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10,

et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

For purposes of Food Assistance Program benefits the department caseworker is charged with counting all of claimant's countable income. The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain programs specific income deductions and disregards. Income means benefits of payments measured in money. It includes money a person owes even if not paid directly, such as stock dividends automatically reinvested in income paid to a representative. The amount of income may be more than the amount the person actually receives because it is the amount before any deductions are taken for taxes and garnishments. The amount before any deductions are taken is called the gross amount. BEM, Item 500, P. 1. Income remaining after applying the policy to this item is called countable. Count all income that is not specifically excluded. BEM, Item 500, p.1.

In the instant case, the Food Assistance Program budget counted claimant's gross unearned income in the amount of \$ [REDACTED]. The caseworker gave claimant the \$ [REDACTED] standard deduction and deducted \$ [REDACTED] in 30% net income which includes the maximum benefit amount in economic recovery amount. This left claimant with a \$ [REDACTED] per month unearned income.

The Federal Regulations at 42 CFR 273.2 have prepared a Food Assistance Program income limits table which is set forth in the program reference manual, table 250. The table provides that a household income of 2 persons with a net income of \$ [REDACTED] is eligible to receive \$ [REDACTED] per month in Food Assistance Program benefits. The department properly counted

claimant's RSDI and SSI income and properly determined claimant's benefit amount. The department's action in this case must be UPHOLD.

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 necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant was eligible to receive \$ [REDACTED] per month in Food Assistance Program benefits and when it cancelled claimant's husband's Medical Assistance benefits and opened a spend-down case for the claimant's husband based upon claimant's possession of excess income.

Accordingly, the department's decision is AFFIRMED.

Claimant has disputed the spend-down amount in this case and the department was unable to articulate just how they reached the spend-down amount. Therefore, the department has not 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 a \$214 per month spend-down. The department is ORDERED to re-assess claimant's spend-down based upon the appropriate income and income deductions and shall notify claimant in writing of the appropriate spend-down amount and shall explain to claimant in writing how the spend-down.

/s/

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

2010-19997/LYL

Date Signed: May 25, 2010

Date Mailed: May 26, 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

cc:

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