

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: 2010-23416  
Issue No: 2014  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 23, 2010  
Berrien 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 March 23, 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 active full Medical Assistant coverage.
- (2) On November 21, 2009, and automatic update took place by the Social Security Administration.

(3) When the automatic update occurred, the BRIDGES computer system computed an updated budget based upon claimant's Social Security monthly income amount and unearned income that claimant receives from payments from a truck.

(4) The updated budget resulted in claimant's Medicaid changing from full Medical Assistance coverage to a deductible Medical Assistance case.

(5) On November 21, 2009, the department caseworker sent claimant notice that his Medical Assistance benefits case would be cancelled and a deductible spend-down case would be opened for claimant in the amount of \$ [REDACTED] per month.

(6) On December 2, 2009, claimant filed a request for a hearing to contest the department's negative action.

(7) The negative action was deleted pending the hearing.

#### CONCLUSIONS OF LAW

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905

Michigan provides Medical Assistance for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant 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. 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 protective monthly income level.

Department policy sets fourth a method for determining the protective maintenance level by considering:

- (1) The protected income level,
- (2) The amount diverted to the dependent,
- (3) Health insurance or premium, and
- (4) Remedial services, if determining the eligibility for claimant's in adult-care

homes.

If a client's income exceeds the protected income level the access amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a spend-down. Policy requires the department to count and budget all income received that is not specifically excluded. There are 3 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 the remuneration or profit. Unearned income is any income that is not earned. The amount of income counted may be more that the amount the person actually received because it is the amount before the 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, captivated the claimant's income based upon his receipt of \$ [REDACTED] per month in RSDI income plus \$ [REDACTED] per month in trust income, which is \$ [REDACTED] in gross unearned monthly income.

After giving the claimant appropriate \$ [REDACTED] unearned income general exclusion, claimant was left with \$ [REDACTED] in net monthly unearned 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 deduction is \$ [REDACTED] in countable unearned net monthly income. The regulations at 42 CFR 435.831 provides standards for the determination of the Medical Assistance 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 the claimant's fiscal group of 1 person is \$ [REDACTED] \$ [REDACTED] in countable unearned income - \$ [REDACTED] in protected income = a \$ [REDACTED] in excess income for purposes of Medical Assistance benefits eligibility. The department's determination that the claimant had excess income for purposed of Medical Assistance benefits 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. Needing the spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down month for the calendar month tested. PEM, Item 545, p. 9. The group must report expenses by last day of the third month following the month that they want coverage for a particular month. PEM, Item 130, explains verifications and timeliness standards. PEM, Item 545, p. 9.

The department's determination that claimant had a deductible spend-down in the amount of \$ [REDACTED] per month is correct. (Exhibit 31) 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 departments decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance department policy when it cancelled claimant's Medical Assistance benefits and opened a deductible spend-down case for claimant based upon claimant's possession of excess income.

Accordingly, the department's decision is AFFIRMED.

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

Date Signed: April 16, 2010

Date Mailed: April 19, 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.

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