

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: 2010-27617
Issue No: 2014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 25, 2010
Marquette 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 May 25, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly cancel claimant's Medical Assistance (MA) and determine that claimant had excess income for purposes of Medical Assistance benefit Eligibility and a spend-down in the amount of \$ [REDACTED] per month?

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 a Medical Assistant Benefits recipient.

(2) On November 19, 2009, an update occurred in Lansing Budgeting which indicated that claimant's current RSDI income had increased, which changed her full coverage Medical Assistance benefits to a deductible case.

(3) On November 19, 2009, the department caseworker sent claimant notice that her Medical Assistance benefits case would be cancelled effective January 1, 2010 and she would have a deductible spend-down.

(4) On January 11, 2010, claimant filed a request for a hearing to contest the department's negative action.

(5) Pursuant to the Social Security Administration, claimant received \$ [REDACTED] per month in gross RSDI income since January 2009.

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 because of her 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 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. PEM, Item 500, p. 1.

The department, in the instant case, calculated claimant's income based upon receipt of \$ [REDACTED] per month in gross unearned income.

The department gave claimant the appropriate unearned income expense deduction based upon the fact that she has children who also receive RSDI income of \$ [REDACTED]. The department deducted the adult's prorated income and claimant's adult share of her own income was \$ [REDACTED] per month in net 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 \$495 of total net monthly income. Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income levels. The department is in compliance with the Program Reference Table, 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 in claimant's circumstance is \$ [REDACTED] per month. \$ [REDACTED] per month in net income minus the total needs of \$ [REDACTED] equals 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 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 130, explains verification and timeliness standards. BEM, Item 545, p. 9.

Claimant testified on the record that she has health problems and diabetes and should receive full Medicaid because she also has other bills to pay and she cannot afford her insulin, which is more expensive than the spend-down every month. For the record, the department determined that claimant has met the spend-down for every month since January 2009 and does have Medicaid coverage for those months. Claimant's request is an equitable argument to be excluded from agency 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).

This Administrative Law Judge has no equity powers and cannot act in contravention of department policy. Therefore, the department has established by the necessary competent, material, and substantial evidence on the record that claimant's RSDI income of \$ [REDACTED] per month resulted in excess income and a deductible spend-down in the amount of \$ [REDACTED] per month. The department actions in this matter 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 properly determined that claimant was not eligible to receive Medical Assistance benefits because she had excess income and also properly determined that claimant had a deductible spend-down in the amount of \$ [REDACTED] per month based upon her possession of the excess income.

Accordingly, the department's decision is AFFIRMED.

/s/

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

Date Signed: June 7, 2010

Date Mailed: June 8, 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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■ [REDACTED]