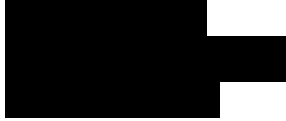


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-44058
Issue No: 2014
Case No: [REDACTED]
Hearing Date:
October 13, 2010
Genesee County DHS (2)

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 October 13, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant had excess income for purposes of Medical Assistance (MA-P) and a deductible spend-down in the amount of \$ [REDACTED]

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 an SSI benefit recipient and was receiving Medicaid based upon her SSI eligibility.
- (2) Claimant's SSI closed and she began receiving RSDI income in the amount of \$ [REDACTED] per month as of September 1, 2009.
- (3) On April 20, 2010, the department case worker sent claimant notice that her Medical Assistance benefit case would close based upon excess income and a deductible spend-down would be open in the amount of \$ [REDACTED] per month.
- (4) On April 23, 2010, claimant filed a request for a hearing to contest the department's negative action.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 to MA eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant initially qualified under the Group 2 classification because she received SSI benefits. When claimant's SSI benefits were cancelled and she was then given RSDI income, claimant then 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.

In the instant case, the department did not provide a budget so this Administrative Law Judge was unable to determine if the department appropriately counted claimant's income and if the department appropriately determined that she was no longer eligible to receive Medicaid and should have a deductible spend-down. This Administrative Law Judge was unable to properly determine the amount for the deductible spend-down and the department did not provide this Administrative Law Judge with any information as to whether or not claimant had any eligible deductions in the form of insurance or Medicare premiums.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has failed to establish 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 for Medical Assistance benefit eligibility and when it determined that claimant had a monthly deductible spend-down. Failure to provide a budget to the Administrative Law Judge at the hearing or thereafter resulted in insufficient information and therefore the department has not established its' case.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's Medical Assistance benefits and to make a determination of claimant's eligibility or lack thereof for Medical Assistance benefits from the April 1, 2010, date of expected cancellation, computer system update and to provide claimant with a notice of her eligibility or lack thereof, a copy of the budget and any spend-down so that claimant understands the reason that her Medical Assistance benefits may have changed.

The department is ORDERED to re-evaluate claimant's eligibility or lack thereof for Medical Assistance benefits and to provide claimant with a copy of the budget.

Landis

/s/ _____
Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 23, 2011

Date Mailed: March 23, 2011

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:

