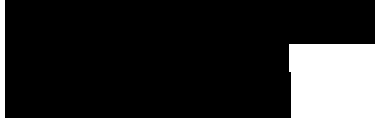


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:



Reg. No.: 201054298
Issue No.: 2019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 9, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on December 9, 2010. The claimant was represented by his guardian and Administrative Hearing Representative (AHR) [REDACTED].

ISSUE

Did the Department properly calculate the claimant's Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. Claimant is an MA recipient.
2. On April 26, 2010, June 24, 2010, and on October 14, 2010, the department notified the claimant that his patient pay amount (PPA) was to be changed, four different times to four different amounts within a seven month period.
3. On July 25, 2010, the claimant's AHR filed a request for a hearing due to severe and numerous fluctuations in the PPA.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence

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Agency) 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).

Here, the department determined the claimant's PPA based on the income documents but was unable to definitively explain why the fluctuations in the PPA were so large and occurred so often.

Documents show that the claimant receives income from SSI and from an Irrevocable Special Needs Trust (ISNT).

The department was prepared to argue for the inclusion of funds taken from the trust for the benefit of the claimant but that never was an issue and was accepted by the claimant's representative.

The claimant's income comes from two sources; SSI disability benefits and the monies taken from the ISNT.

PROSPECTING INCOME

Prospecting income means arriving at a best estimate of the person's income. Prospect income when you are estimating income to be received in a processing or future month. Your best estimate may not be the exact amount of income received.

Some of the reasons income fluctuates is because:
The number of hours worked in a month may fluctuate.
The amount of tips may vary from payday to payday.
Use the following guidelines for prospecting income:

For fluctuating earned income, use the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings.

Paystubs showing year-to-date earnings and frequency of pay are usually as good as multiple paystubs to verify income.

A certain number of paystubs is not required to verify income. If even one paystub reflects the hours and wages indicated on the application, that is sufficient information.

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If a person reports a pay rate change and/or an increase or decrease in the number of hours they usually work, use the new amount even if the change is not reflected on any paystubs.... (BEM 530, p.3).

Here, the severe and numerous fluctuations in PPA cannot be explained by changes in the income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to accept further income documentation and recalculate the claimant's MA returning to the April 26, 2010.



Michael J. Bennane
Administrative Law Judge
For Duane Berger, Director
Department of Human Services

Date Signed: 1/12/2011

Date Mailed: 1/12/2011

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.

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cc:

