

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

IN THE MATTER OF:

[REDACTED]

Reg No. 20106283
Issue No. 2026
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: June 17, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Jana Bachman

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, an in-person hearing was held on June 17, 2010. Claimant was represented by [REDACTED].

ISSUE

Whether the department properly determined claimant's eligibility for 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. On or about June 29, 2009, claimant reported that she was employed as of June 3, 2009. Claimant was expected to work 28 or more hours per week at the rate of \$8 per hour. Department Exhibit A, pgs 3-4.
2. Effective April 2009, claimant received gross Social Security disability benefits (RSDI) of [REDACTED] per month. Deducted from that amount were her Medicare premium of \$96.40 and \$71 in overpayment. Department Exhibit A, pgs 11-12, 15-16.

3. June 30, 2009, the department prepared a MA budget. Claimant had excess income to qualify for Medicare Savings Program. Claimant was to begin having a patient pay/deductible of [REDACTED] per month. Department Exhibit A, pgs 19-25, 1-2.
4. At hearing, claimant indicated that she had been married during July 2009 and later separated. She testified that her employment had ended during July 2009.

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 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).

Department manuals provide the following policy statements and instructions for caseworkers:

When determining eligibility for MA, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. Social Security benefits and earned income are not excluded and must be counted when determining MA eligibility. The MA program provides for a standard \$20 deduction from unearned income. \$65 plus one-half of earned income is deducted. A deduction may be included for expenses that enable an impaired or blind person to work and for guardianship or conservatorship fees. An allocation from income may be made to non-SSI children living with the household. BRIDGES Eligibility Manual BEM 500, 541.

Federal regulations at 40 CFR 435.811, .814, .831(C)(I) and .1007 provide standards for MA eligibility. The department in compliance with these regulations has prepared income tables that are set forth at reference table (RFT 240) and specify the amount of income a household may have to qualify for MA. These maximum income limits are referred as the protected income levels. MA policy provides for additions to the protected income level. An addition is allowed if the individual or household pays health insurance premiums. An addition may also be made for the cost of remedial services. BEM 544.

Monthly deductible in the process by which a person or household with excess income may qualify for MA coverage. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the monthly deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month it wants MA coverage. Medical expenses may be allowed when: (a) the expenses are incurred by a MA group member; and (b) the MA

individual or household is responsible for payment; and (c) when they have not previously been used to meet a monthly deductible. The bills may be old or new expenses. BEM 545.

Consider clients eligibility for all other MA categories before considering eligibility for Freedom to Work (FTW). FTW is available to a disabled client age 16 through 64 who has earned income. Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met within the calendar month being tested. Non-financial eligibility factors include the following:

- The client must be MA eligible before eligibility for FTW can be considered.
- The client does not access MA through a deductible.
- The client must be disabled according to the disability standards of the Social Security Administration, except employment, earnings, and substantial gainful activity (SGA) cannot be considered in the disability determination.
- The client must be employed.
- Residence, identity, Social Security number, citizenship/ alien status, third party resource liability, institutional status, and pursuit of benefits requirements must be met. Income eligibility exists when a client's net unearned income does not exceed 100% of the federal poverty level (FPL) which is \$903 effective April 1, 2009. BEM 174; Title XVIII of the Social Security Act; Public Act 33 of 2003.

In this case, the Administrative Law Judge has examined the record and the department policy and finds that the department correctly calculated claimant's countable income and monthly deductible. The department acted on the information available to it on the date of its eligibility determination which was June 30, 2009. Claimant testified at hearing that during July 2009 she got married, later got separated, and later left her employment. None of these changes had taken place on the date that the department completed its eligibility determination. Claimant apparently transferred her case to another county and had a number of changes. No evidence was submitted at hearing to establish that other changes were acted upon either properly or improperly by the other county. Accordingly, the department has met its burden of proof regarding the monthly deductible and its action must be upheld. Findings of Fact 1-4.

Department policy provides for a Medical Assistance program called Freedom to Work (FTW) that is available to working people who also receive Social Security disability benefits. The department did not pursue this program as required by department policy. Findings of Fact 1-4.

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 properly determined the amount of claimant's monthly MA deductible. The department did not properly pursue Freedom to Work Medical Assistance benefits.

Accordingly, the department's action is UPHELD in part. The department is to initiate a determination of claimant's eligibility for Freedom to Work Medical Assistance in compliance with department policy and this Decision and Order.

/s/ _____
Jana Bachman
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 6, 2010

Date Mailed: August 9, 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.

JAB/vc

cc:

