

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: 2010-850
Issue No: 2014; 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 26, 2010
Emmett County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, January 26, 2010. The claimant personally appeared and testified on his own behalf.

ISSUES

- (1) Did the department properly deny the claimant's Medical Assistance (MA-P) application based upon its determination that the claimant had excess income?
- (2) Did the department properly place the claimant's MA case in spend-down status and determine his monthly deductible?

FINDINGS OF FACT

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

(1) On May 26, 2009, the claimant applied for MA-P benefits. (Department Exhibit 1-16)

(2) The claimant's wife had earned income in the amount of \$2,691. (Department Exhibit 17-21)

(3) The claimant receives [REDACTED] income in the amount of \$1,516. (Department Exhibit 24-25)

(4) On August 13, 2009, the department caseworker calculated the claimant's eligibility for Group 2 MA benefits. (Department Exhibit 29):

- The claimant had a net earned income of \$1,159 resulting from a [REDACTED] income of \$1,516 minus the unearned allocation to non-SSI-related children of \$337 and unearned income general exclusion of \$20.
- The claimant had a net earned income of \$1,313 resulting from the claimant earned income of \$2,691 and the \$65 plus one half disregard of \$1,378.
- The claimant had a countable income of \$2,472, resulting from the claimant's net earned income of \$1,313 and net unearned income of \$1,159.
- The claimant's protected income level for a group size of two was \$532 for his shelter area.
- Therefore, the claimant's household had excess income or a deductible in the amount of \$1,940, resulting from the claimant's protected income level of \$532 being subtracted from his fiscal net income of \$2,472.

(5) On August 13, 2009, the department caseworker sent the claimant a notice that he was eligible for MA deductible from May 1, 2009 to May 31, 2009 in the amount of \$1,946 and from June 1, 2009 ongoing for \$1,940. (Department Exhibit 34-36)

(6) On August 17, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

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).

The department's Program Eligibility Manual provides the following relevant policy statements and instructions for caseworkers:

ASSETS

DEPARTMENT POLICY

FIP, SDA, LIF, Group 2 Persons Under Age 21, Group 2 Caretaker Relative, SSI-Related MA, and AMP

Assets must be considered in determining eligibility for FIP, SDA, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP.

- . "CASH" (which includes savings and checking accounts)
- . "INVESTMENTS"
- . "RETIREMENT PLANS"
- . "TRUSTS" PEM, Item 400.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients can be penalized for divestment (see PEM 405). PEM, Item 400, p. 4.

SSI-Related MA Asset Limit

SSI-Related MA Only

For Freedom to Work (PEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRA's and 401(k)'s) may be of unlimited value.

For Medicare Savings Program (PEM 165) and QDWI (PEM 169) the asset limit is:

- . \$4,000 for an asset group of one
- . \$6,000 for an asset group of two

For all other SSI-related MA categories, the asset limit is:

- . \$2,000 for an asset group of one
- . \$3,000 for an asset group of two. PEM, Item 400, p. 4.

AVAILABLE

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

An asset must be available to be countable. **Available** means that someone in the asset group has the legal right to use or dispose of the asset. PEM, Item 400, p. 6.

Assume an asset is available unless evidence shows it is **not** available. PEM, Item 400, p. 6.

Lump Sums and Accumulated Benefits

FIP, SDA and AMP Only

Lump-sums and accumulated benefits are assets starting the month received.

A person might receive a single payment that includes both accumulated benefits and benefits intended as a payment for the current month. Treat the portion intended for the current month as income. PEM, Item 400, p. 9.

LIF, G2U, G2C, SSI-Related MA

Lump sums and accumulated benefits are income in the month received. See PEM 500 about countable income policy.

Exception: The following are assets:

- . Income tax refunds
- . Nonrecurring proceeds from the sale of assets
- . Payments that are excluded assets PEM, Item 400, p. 10.

RETIREMENT PLANS

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

This section is about the following types of assets:

- . Individual retirement accounts (IRAs)
- . Keogh plans (also called H.R. 10 plans)
- . 401k plans
- . Deferred compensation
- . Pension plans
- . Annuities--An annuity is a written contract establishing a right to receive specified, periodic payments for life or for a term of years. PEM, Item 400, pp. 14-15.

Joint Cash and Retirement Plans

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

This section applies to the types of assets listed under "**CASH**" and "**RETIREMENT PLANS**" below.

Count the entire amount **unless** the person claims and verifies a different ownership. Then, each owner's share is the amount he owns.

SSI-Related MA Only

Exception: Apply the following when an L/H or waiver patient (see PRG, Glossary, and PEM 106) and his spouse jointly own the asset:

Exception:

- . Consider the client the sole owner in determining the community spouse resource allowance (CSRA). PEM 402 describes the CSRA.
- . Proceed as follows for all other purposes:
 - .. If the spouse is an MA-only client or receives FIP or SSI, each spouse owns an equal share unless otherwise claimed and verified.
 - .. If the spouse is **not** an MA-only client and does **not** receive FIP or SSI, consider the asset totally available unless otherwise claimed and verified.

Exception: Count equal shares of an asset owned by more than one SSI-related MA child unless the person claims and verifies a different ownership.

Exception: If the owners are an SSI-related MA child and his parent(s) and asset deeming applies, count the total amount as the child's unless the person claims and verifies a different ownership. PEM, Item 400, pp. 7-8.

Michigan provides MA for eligible clients under two general classifications: Group 1 and Group 2 MA. The claimant qualifies under the Group 2 MA classification, which consists of clients whose eligibility results from the state designating certain types of individuals as medically needy. In order to qualify for Group 2 MA, medically needy clients must have income which is equal to or less than the basic protected monthly income level. BEM, Item 105.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). PEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). PEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. PEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in PEM 544. PEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in the policy contained in the Program Reference Table (PRT).

An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for MA, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group’s monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. PEM 545; 42 CFR 435.831.

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Deductible Period

Each calendar month is a separate deductible period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "**EXHIBIT I**") that equal or exceed the deductible amount for the calendar month tested. PEM, Item 545, p. 9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. PAM 130 explains verification and timeliness standards. PEM, Item 545. p. 9.

In this case, the claimant had a fiscal net income of \$2,472. The claimant's protected income level in his shelter area for a group size of two is \$532. PRT 240. After subtracting the claimant's total needs amount of \$532 from his total fiscal group net income of \$2,472, the claimant would be left with an excess income or deductible of \$1,940. Therefore, the claimant's MA deductible determination 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 placed the claimant's MA case in spend-down status and determined the monthly deductible of \$1,940.

Accordingly, the department's MA deductible action is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 9, 2010

Date Mailed: March 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.

CGF/vmc

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