

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-44280  
Issue No: 2014  
Case No: [REDACTED]  
Hearing Date:  
August 31, 2011  
Grand Traverse 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 August 31, 2011. 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) and a deductible spend-down?

**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 had an active Medical Assistance case as an SSI recipient.
- (2) Claimant's income increased to \$ [REDACTED] in monthly RSDI income. (Exhibits 1-3)
- (3) Claimant was eligible for terminated SSI Medical benefits from January 1, 2010 through June 30, 2011. (Exhibits 4-6)
- (4) The department caseworker conducted a case review and determined that claimant's deductible spend-down should be \$ [REDACTED] per month.
- (5) On June 15, 2011, based upon the new budget, the department caseworker notified claimant that her new monthly deductible would be \$ [REDACTED] per month effective June 27, 2011.

- (6) On June 21, 2011, 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 Michigan provides MA eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because she received 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 net income limit for QMB is Medical Assistance eligibility for a person in claimant's circumstances is \$ [REDACTED] pursuant to BEM 544.

In the instant case, the department calculated claimant's monthly income based upon her receipt of monthly unearned income of \$ [REDACTED] from the Social Security Administration. The department gave claimant a general unearned income exclusion of \$ [REDACTED] and an insurance premium deduction of \$ [REDACTED] for a total of \$ [REDACTED] in total net monthly income. Federal regulations at 42 CFR 435.831 provide standards for the determination of the MA monthly protected income levels. The department, in this case, is in compliance with the Program Reference Manual, 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 is \$ [REDACTED] per month which leaves her with an excess income in the amount of \$ [REDACTED] ( $\$ [REDACTED] \text{ in net income} - \$ [REDACTED] \text{ in protected income} = \$ [REDACTED] \text{ in excess income}$ ). The department's determination that claimant has excess income for purposes of Medical Assistance and QMB-MA eligibility is in compliance with department policy.

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.

The department's determination that claimant had a spend-down in the amount of \$978 per month is correct based upon the information contained in the file.

Claimant's allegations that the spend-down is too expensive, that she cannot afford the spend-down and that the policy is unfair are equitable arguments to be excused for department 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).

Therefore, the Administrative Law Judge finds that the department has established 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 of Medical Assistance benefit eligibility and when it determined that claimant had a monthly deductible spend-down in the amount of \$ [REDACTED] per month. (Exhibit 14)

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established 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 of Medical Assistance eligibility, no longer met the income criteria for Low Income Medical Assistance benefits and opened a deductible spend-down case for claimant in the amount of \$ [REDACTED] per month based upon claimant's possession of excess income.

Accordingly, the department's decision is AFFIRMED.

Landis

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

Date Signed: September 7, 2011

Date Mailed: September 7, 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.

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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:

