

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14- 003116
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: July 29, 2014
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION AND ORDER

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, AN in-person hearing was held on July 29, 2014, from Kalamazoo, Michigan. Participants on behalf of Claimant included Claimant and her [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department of Human Services (the Department) properly deny Claimant's application Medical Assistance (MA-P) and State Disability Assistance (SDA)?

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 eligible for Medical Assistance because she was an SSI benefit recipient and was active case for [REDACTED].
2. In March 2013, Claimant married under SSI was canceled for excess income because her [REDACTED] had income.
3. The Medical Assistance SSI case closed as of September 2013.
4. A redetermination was performed and it was determined that Claimant no longer eligible for MA – SSI related and was not eligible for group 2 medical assistance with the deductible spend down effective July 1, 2014.

5. Claimant has been receiving \$ [REDACTED] in [REDACTED], and \$ [REDACTED] in RSDI benefits from the Social Security Administration. Claimant was a scene \$ [REDACTED] in RSDI benefits for a total of \$ [REDACTED] in monthly unearned income.
6. A budget was generated and it was determined that Claimant and her husband had a monthly deductible spend down of \$ [REDACTED]
7. On May 13, 2014, the Department caseworker sent Claimant notice that her case would be changed over to a deductible spend-down case because of her income change.
8. On May 19, 2014, 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). Claimants 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 MA eligible Claimants under two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification which consists of Claimants whose eligibility results from the state designating certain types of individuals as medically needy. PEM, Item 105. In order to qualify for Group 2 MA, a medically needy Claimant 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 calculated Claimant's income based upon receipt of \$ [REDACTED] per month in gross income.

After giving Claimant the appropriate earned and unearned expense deductions, the Department determined that Claimant was receiving \$ [REDACTED] per month in net monthly income. The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income after being provided with the most beneficial earned and unearned income deductions (\$ [REDACTED] and earned income general exclusion plus \$ [REDACTED] in insurance premiums) is \$ [REDACTED] per month. Federal regulations at 42 CFR 435.831 provide standards for the determination of the MA monthly protected income levels. The Department 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 two people is \$ [REDACTED] \$ [REDACTED] per month in net income minus the total needs of \$ [REDACTED] equals excess income in the amount of \$ [REDACTED]. The Department's determination that Claimant has excess income for purposes of Medical Assistance eligibility is correct.

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. PEM, 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. PEM, 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. PEM, Item 130 explains verification and timeliness standards. PEM, Item 545, p. 9.

The Department's determination that Claimant had a spend-down in the amount of \$ [REDACTED] per month is correct based upon the information contained in the file.

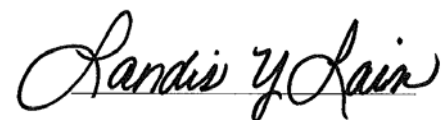
The Administrative Law Judge has no equity powers. Therefore, the Administrative Law Judge finds that the Department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Claimant had 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]

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] month.

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

Date Signed: 8/25/14

Date Mailed: 8/26/14

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

LYL/tb

cc:

