

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: 2008-23939

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 4, 2009

Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on June 4, 2009.

ISSUE

Was the claimant's Medicaid application properly denied for excess assets?

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 5-2-08, claimant applied for Medicaid; claimant also applied for retro Medicaid for the month of April, 2008.

(2) Upon processing the application, it was determined that claimant had several countable assets, including several cars, and at least two other pieces of property other than her property of residence.

(3) The caseworker stopped counting assets once it was determined that claimant was over the asset limit.

(4) Claimant's application was subsequently denied for exceeding the asset limit on 6-18-08.

(5) On 6-23-08, claimant requested a hearing.

#### 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) and Reference Tables (RFT).

With regard to the Medicaid eligibility determination, the State of Michigan has set guidelines for assets, which determine if a Medicaid group is eligible. An asset is cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles). PEM 400

Countable assets cannot exceed the applicable asset limit; however, not all assets are countable. The asset limit for the program in question was \$3,000. Other programs were also

considered, but claimant's assets exceeded the eligibility threshold. Countable assets are based on SSI-related MA policy in PEM 400. When using PEM 400, the couple is considered an asset group. PEM, Item 402, p. 3.

When computing the official asset total, it is uncontested at this point that the Department made several mistakes. Claimant has several automobiles that were included in the total asset calculation. Claimant alleged that many of these were not working, and the Department agreed that these cars should be removed from the calculations. Furthermore, the Department incorrectly used the totals from claimant's bank accounts—the Department testified that it customarily uses the lowest balance during the course of a month as the total and in a few instances the lowest balance was not used. Additionally, the claimant credibly testified that at least one of the accounts used was a business account for her husband's small business, and therefore shouldn't have been counted. This is reasonable and in line with the policies.

Thus, it appears that the Department made several errors when computing the claimant's assets and the undersigned would normally be within his rights to order the Department to go back and recalculate the budget using the correct numbers. That being said, the Administrative Law Judge will not order a lengthy recalculation of claimant's Medicaid budget if the new numbers will not affect the final outcome. Sadly, this appears to be the case.

When calculating the initial budget, the Department stopped counting assets once it was apparent that the claimant would be over the asset limit, and thus, ineligible for Medicaid. Thus, several assets that the claimant owned were not included in the final total, the most important of these being two pieces of real property that the claimant owned in addition to her homestead. Homestead property is excluded under the asset rules. PEM 400. However, additional pieces of real property are not, and are counted against the asset total in the amount equal to their fair

market value. PEM 400. When questioned about these pieces of property at hearing, claimant testified that one of the properties was worth around \$107, 500, and the other was worth \$75,000. The Administrative Law Judge has reviewed the regulations and has seen no exception to the asset counting rules that could include these assets. Therefore, they must be counted in the final total.

As claimant herself admitted that she owns assets totaling close to \$180,000, and that the asset limit is \$3,000, the Administrative Law Judge sees no reason to require the Department to recalculate the budget. To do so would be to waste both the Department's time and the claimant's in a fairly futile exercise. Therefore, while the Department was indeed in error when calculating the original budget, the undersigned finds that this error was harmless, as the claimant would still be considered ineligible for Medicaid under a new, corrected budget.

Finally, the claimant argued that the asset limit as it stands was far too low to fulfill the Department's stated purpose, given that claimant was in fairly dire need with respect to medical bills rising from claimant's serious medical condition in 2008. Claimant could very well be correct; however, the Administrative Law Judge has no jurisdiction to overturn these limits. Such a decision is a decision decided by the various legislatures and elected leaders of this country. The undersigned has no power to overrule such laws.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct when it determined claimant assets exceeded the asset limit for the Medicaid program.

Accordingly, the Department's decision in the above stated matter is, hereby,  
AFFIRMED.

/s/  
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Robert J. Chavez  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: June 26, 2009

Date Mailed: June 29, 2009

**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.

RJC/cv

cc:

