

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: 2008-24854

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 28, 2009

Wayne 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 May 28, 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 5-15-07, claimant applied for Medicaid, specifically for the months of March, April and May, 2007.
- (2) That application was initially denied for a failure to return verifications.
- (3) A hearing was held in February, 2008, where the parties stipulated to reopen the application if the claimant returned requested verifications.

(4) Upon processing the application, it was determined that claimant had more assets than originally thought, and claimant's application was denied.

(5) On 4-21-08, 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 Medicaid group is eligible. An asset is cash, any other personal property and real property. 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 formula for asset eligibility is:

- . The value of the couple's countable assets for the month being tested
- . MINUS the "protected spousal amount" (see below)

**EQUALS** the client's countable assets. Countable assets must **not** exceed the limit for one person in PEM 400 for the category (ies) being tested. PEM, Item 402, p. 3.

The protected spousal amount is the amount of the couple's assets protected for use by the community spouse. It is the **greatest** of the amounts in 1-4 below.

1. \$20,880 effective January 1, 2008 and \$20, 376 effective April 1, 2007.
2. One-half the initial asset assessment amount (see "**INITIAL ASSET ASSESSMENT**"), but **not** more than \$104,400 effective January 1, 2008 and \$101,880 effective April 1, 2007.
3. The amount determined in a hearing per PAM 600.
4. The amount of assets transferred to the community spouse by the client pursuant to a court order requiring the client to:
  - .. pay support to the community spouse, and
  - .. transfer assets to the community spouse for the support of the community spouse or a family member. Family member is defined under "FAMILY ALLOWANCE" in PEM 546. PEM, Item 402, pp. 7 and 8.

An initial asset assessment is needed to determine how much of a couple's assets are protected for the community spouse. An initial asset assessment means determining the couple's (his, her, their) total countable assets as of the first day of the **first** continuous period of care that began on or after September 30, 1989. PEM, Item 402, pp. 5-6.

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.

In the current case, the initial asset assessment was determined to be \$76,977.13 at the time of the claimant's initial hospitalization. Therefore, the protected spousal amount would be \$38,488.57, which is the higher number of the policy dictated above. While that number can be adjusted upwards in cases of extreme hardship, extreme hardship has a very specific definition, and no evidence of extreme hardship was presented during the hearing. PAM 600.

For the month of May, 2007, one of the months being tested, the total amount of the couple's assets totaled \$48,690.57. This amount was verified by Department Exhibit 3, claimant's bank account records. Furthermore, claimant verified that these records were correct.

Total countable assets are determined by taking this number, and subtracting the protected spousal amount, \$38,488.57, which comes out to \$10,202. Countable assets cannot exceed the asset limit; in this case, the asset limit was \$4,000. Claimant's assets therefore exceeded the countable assets, and therefore, claimant's application was properly denied.

This budget did not differ greatly for the other months in question.

Claimant argued that she had been told that a certain amount needed to be spent; she spent that amount, and therefore should have been eligible. While it appears that a miscommunication did occur, the miscommunication appeared based upon a misunderstanding as to the total assets the couple possessed. When a previously unknown bank account containing over thirty thousand dollars was discovered, new figures had to be produced, and it was determined that claimant's assets exceeded the allowable assets. While it is unfortunate that this miscommunication occurred, the fact that it did occur does not change the ultimate outcome of this case.

Similarly, the Administrative Law Judge found errors in the official budget submitted by the Department, mainly in that the initial asset assessment was incorrect, which in turn led to a far lower protected spousal amount than claimant was entitled to. However, upon using the correct numbers, the Administrative Law Judge has determined that the correct numbers would not have made an ultimate difference in the claimant's case; the asset limit is \$4000 dollars. The Department determined initially that the claimant was over asset by \$28,314.57. The correct budget shows that the claimant was over asset by \$10,202. While the Department's budget was incorrect, it still came to the correct conclusion—that claimant's assets exceeded the allowable asset limit imposed by policy. Therefore, while the Department was in error, the error was harmless, and the undersigned sees no reason to reverse the Department's decision only to have the claimant's case denied again using different numbers.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, 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/ \_\_\_\_\_  
Robert J. Chavez  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: June 15, 2009

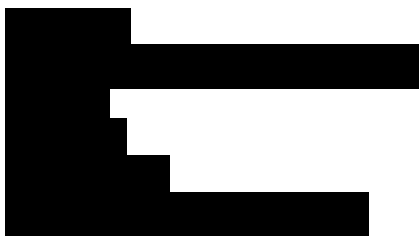
Date Mailed: June 15, 2009

**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:

A large black rectangular redaction box covering several lines of text in the distribution list.