

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: 2008-25273  
Issue No: 2021  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
May 12, 2009  
Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 May 12, 2009. Claimant was represented by [REDACTED]

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

- (1) November 21, 2007, claimant's representative applied for MA, State Disability Assistance, and Food Assistance on claimant's behalf.
- (2) January 2, 2008, the department sent claimant and representative written notice that the application was denied due to excess assets. Department A, page 54, 57, 62 -63, 67-68.

(3) Although the application was already denied, on January 9, 2008, the department sent claimant and representative a second Verification Checklist (DHS-3503) indicating a new due date of January 22, 2008. Department A, page 66.

(4) March 19, 2008, the department sent claimant and representative written notice that claimant was denied for September and October 2007 – stating “see previous notices on January 9, 2008 and January 2, 2008.

### 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).

Department manuals provide the following policy statements and instructions for caseworkers:

Countable assets cannot exceed the applicable asset limit. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. The asset limit for SSI-related MA, asset group of 1 is \$2000.

Not all assets are counted.

You must consider the following to determine whether, and how much of, an asset is countable:

- An asset is countable if it meets the availability tests and is not excluded.

- 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.
- Assume an asset is available unless evidence shows it is not available.

Program Eligibility Manual (PEM) 400

P.A. 280 of 1939, as amended

Social Security Act, Sections 1902(a)(10); (r)(2)

Deficit Reduction Act of 2005

42 CFR 435.840 - .845

MCL 400.106

In this case, for unknown reasons the department sent claimant a checklist after case denial and then a new denial notice three months after the application was denied. Department policy does not provide for or require such actions barring an error in processing which is not asserted by either party. Finding of Fact (FOF)1-4.

Regarding the department's determination that claimant has excess assets for September and October 2007, it is not clear in the department documents and from sworn testimony how the department arrived at income and asset figures used to determine eligibility. Department A, pages 30-49 The department employee who completed the budgets was not available and the department representative at hearing did not provide pertinent details. Accordingly, the department has not met its burden of proof and its action can not be upheld.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is HEREBY REVERSED. The department is to initiate a determination of claimant's eligibility for MA for September and October 2007 in compliance with department policy and this decision and order.

/S/ \_\_\_\_\_  
Jana A. Bachman  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: September 2, 2009

Date Mailed: September 3, 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 receipt 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.

JAB/db

cc:

