

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: 2008-26303

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 11, 2009

Kent 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 August 11, 2009.

ISSUE

Was the claimant's retroactive 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 5-20-08, claimant applied for Medicaid, specifically for the months of February, March, and April, 2008, as well as ongoing Medicaid.
- (2) Upon processing the application, it was determined that claimant had more assets than the acceptable asset limit, and claimant's application was denied.

(3) Claimant had a trust fund at her nursing facility; this amount had been steadily increasing, which put her over the asset limit for the months of February and March, 2008.

(4) During the budget calculations, a few days were not considered during the month of February 2008 with regard to claimant's bank account levels; however, the account levels during this time were not enough to make a material difference to the budget calculations.

(5) Claimant's retroactive Medicaid for February and March were subsequently denied.

(6) On 7-18-08, 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. 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.

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.

Claimant is in a single person asset group. There is no protected spousal amount in the current case; therefore the value of claimant's assets is considered alone. PEM 402.

For the month of February, 2008, one of the months being tested, the total amount of the claimant's assets totaled \$2,333.69. This amount was verified by Department Exhibit 4, claimant's bank account records. While it is not contested that five days at the beginning of the month were not considered, the Administrative Law Judge has determined, that the amount in the account during those five days would not have made a material difference, after claimant testimony as to the amount in the account during this time period. Claimant did not contest this determination.

Total countable assets are determined by taking the amount in the accounts and adding it to the amount in the claimant's fund at her care facility, to come up with a total of \$2,333.69. Countable assets cannot exceed the asset limit; in this case, the asset limit was \$2,000. 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 month in question. Claimant's asset total during March, 2008 was \$2,355, which is still above the asset limit.

While the Administrative Law Judge agrees that there are errors in the official budget submitted by the Department, mainly in that the initial asset assessment for February was incorrect by not including the bank account amounts for 2-1-08 through 2-5-08, 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 \$2,000 dollars, and the revised numbers do not lower claimant's actual assets enough to get below this threshold. Claimant did not contest this at the hearing. 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, 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/

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

Date Signed: September 21, 2009

Date Mailed: September 21, 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.

2008-26303/RJC

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:

