

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.: 2009-10937  
Issue No.: 2021  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
October 28, 2009  
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was conducted from Taylor, Michigan on October 28, 2009. The Claimant's authorized representative, [REDACTED] of [REDACTED], appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's MA budget based upon the May 18, 2007 application?

FINDINGS OF FACT

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

1. The Claimant submitted an application for Medical Assistance ("MA") on May 18, 2007.
2. The original application was denied due to excess assets. (Exhibit 1, p. 14)
3. The Claimant/Representative submitted a written request for hearing. (Exhibit 1, p. 15)

4. On July 14, 2008, a hearing was held resulting in a Decision and Order reversing the Department's determination, ordering the Department to initiate review of the May 2007 application to include recalculating the Claimant's MA budgets. (Exhibit 1, pp. 4 – 7)
5. In May of 2007, the Claimant's assets included a [REDACTED], a [REDACTED], a [REDACTED], and a [REDACTED]. (Exhibit 1, pp. 26 – 33)
6. On October 9, 2008, the Department recalculated the Claimant's budget using the same information from the prior budget. (Exhibit 1, pp. 7 – 10)
7. The Department excluded the Mazda and Contour in determining the MA budget.
8. As a result, the Claimant was again determined to be ineligible due to excess assets. (Exhibit 1, p. 11)
9. On November 6, 2008, the Department received the Claimant's timely written request for hearing.

#### CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services pursuant to MCL 400.10, *et. seq.* The Department of Human Services ("DHS"), formally known as the Family Independence Agency, administers the program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The Department periodically re-evaluates cases to ensure continued eligibility for benefits. PAM 210 In addition to income, assets must be considered in determining MA eligibility. PEM 400 Assets are cash and any other personal and/or real property. *Id.*

Countable assets must be available and cannot exceed the applicable asset limit, which in this case is \$3,000.00. *Id.* Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.* All types of assets are considered for SSI-related MA categories. PEM 400 MA eligibility for future months is not authorized if at application processing, the individual has excess assets. *Id.*

For SSI-Related MA, when a group owns multiple motorized vehicles, the employment asset exclusion is used first, then the vehicle with the highest equity value is excluded. PEM 400 The value of a vehicle is its equity value. *Id.* Equity value is the fair market value minus the amount legally owned in a written lien provision. *Id.* Verification sources for vehicles includes an inquiry from the Secretary of State; Title, registration, or proof of insurance; Blue book or NADA book wholesale (trade-in) value (excluding optional or special equipment and not considering low mileage); Kelley Blue Book value; loan statement/payment book; or a statement of vehicle dealer or junk dealer, as appropriate. *Id.* An individual is allowed to establish that the vehicle is worth less (for example, due to damage) than the wholesale book value. *Id.*

In the record presented, the parties agreed that the only issue was whether or not the Department correctly included/excluded (and which ones) the Claimant's vehicles in determining MA eligibility. The Department's MA budget included the Claimant's [REDACTED] with a then-Kelley Blue Book value of \$2,960.00. The [REDACTED] with a Kelley Blue Book Value of \$1,255.00 was also included which resulted in a denial due to excess assets. The Claimant/Representative correctly argued that the vehicle with the highest equity value, here the [REDACTED], should have been excluded. The [REDACTED] and [REDACTED] should have been included in the calculation. In light of the foregoing, the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to act in accordance with Department policy when calculated the Claimant's MA budget based on the May 18, 2007 application.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall re-open and process the Claimant's May 18, 2007 application and shall exclude the Dodge Ram from the MA budget but shall include the equity value of the three other vehicles in accordance with department policy.
3. The Department shall notify the Claimant and his representative in writing of the determination in accordance with department policy.
4. The Department shall supplement for any lost benefits the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

*Colleen M. Mamelka*

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Colleen M. Mamelka  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 11/05/09

Date Mailed: 11/05/09

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.

CMM/jlg

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