

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.: 2009-11148  
Issue No.: 2021  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date:  
August 17, 2009  
Macomb County DHS (36)

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 request for hearing received by the Department on February 24, 2009. After due notice, a hearing was conducted in Sterling Heights, Michigan on August 17, 2009. The Claimant's father (authorized representative) and mother appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Medical Assistance ("MA") benefits due to excess assets?

FINDINGS OF FACT

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

1. The Claimant is disabled and a MA recipient.

2. On February 14, 2007, a prior hearing was held regarding the Claimant's eligibility under the Freedom to Work ("FTW") program in light of the Claimant's assets exceeding the Medicare Savings Program asset limit of \$4,000.00.
3. On March 21, 2007, a decision issued which found the Department acted in accordance with policy when it determined the Claimant's eligibility under the FTW program and imposed a monthly premium payment due to the Claimant's assets exceeding the \$4,000.00 asset limitation. (Exhibit 1)
4. The Department failed to implement the decision and instead the Claimant continued to receive Medical Assistance benefits without interruption.
5. On September 8, 2008, as part of a review, the Department sent the Claimant a verification checklist requesting supporting documentation be submitted by September 18, 2008. (Exhibit 2)
6. The verifications were not provided as requested.
7. As a result, on September 30, 2008, the Department sent the Claimant a Notice of Case Action informing the Claimant that his Medicaid coverage was scheduled for cancellation effective October 14<sup>th</sup> due to the failure to submit the requested verifications. (Exhibit 6)
8. On October 3, 2008, the Department received the Claimant's written request for hearing protesting the proposed action.
9. The negative action was deleted.
10. On October 9<sup>th</sup>, the Department sent a letter to the Claimant asking if a pre-hearing conference should be scheduled.
11. On January 2, 2009, a second verification checklist was sent to the Claimant requesting additional records be submitted by January 11, 2009. (Exhibit 3)

12. On January 13, 2009, the Claimant submitted a credit union bank statement for the month of November of 2008 showing an ending balance of \$517.57. (Exhibit 4, p. 1)
13. On January 13<sup>th</sup>, a bank savings statement for the month of November of 2008 with a ending balance of \$6,713.11. (Exhibit 1, pp. 2)
14. The Claimant's checking account ending balance for the period from November 7, 2008 through December 5, 2008 was \$1,564.03. (Exhibit 1, p. 3)
15. On this same date, January 13<sup>th</sup>, an investment statement for the 2<sup>nd</sup> quarter was submitted which showed a 100% vested balance of \$10,943.16. (Exhibit 1, pp. 4 – 9)
16. On January 16, 2008, the Department calculated the Claimant's Medical Assistance budget and included \$19,737.87 in countable assets (see facts 11 – 14). (Exhibit 5)
17. As a result, the Department sent the Claimant notification that he was found ineligible, thus his benefits would cancel, due to to excess assets. (Exhibit 7)
18. On February 23, 2009, the Department received the Claimant's written request for hearing protesting the cancellation of benefits. (Exhibit 7)

#### 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, formally known as the Family Independence Agency, 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”).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105 Medicaid is also known as

Medical Assistance (“MA”). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP-related or SSI-related. *Id.* To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare, or formally blind or disabled. *Id.* In general, the terms Group 1 and Group 2 relate to financial eligibility factors. PEM 155 through 174 describes SSI-related categories. PEM 105

The Freedom to Work (“FTW”) is a SSI-related Group 1 MA category and is available to a disabled client age 16 through 64 who has earned income. MCL 400.106a(2)(a)(b); PEM 174 FTW eligibility is not considered before January of 2004. PEM 174 In order to be eligible under the FTW, certain non-financial factors must be considered. The individual must be a current MA recipient under MCL 400.106 or meet the income, asset, and eligibility requirements for the medical assistance program under MCL 400.106. MCL 400.106a(2)(d) Except as provided in MCL 400.106a, an individual must, in part, apply as prescribed by the family independence agency; must have annual income that is below, or subject to limitations imposed by the director and, because of medical expenses, fall below the protected maintenance level (for a 1-person group- at least 100% of the payment standards generally used to determine eligibility in the family independence program); and must not have liquid or marketable assets of not more than \$2,000.00 in value. MCL 400.106(1)(b)(i)(iii)(iv) An individual who *qualifies* for and is enrolled under the FTW is permitted to accumulate personal savings and assets not to exceed \$75,000.00 and may accumulate unlimited retirement and individual retirement accounts. (Emphasis added) MCL 400.106a(4)(a)(b) PEM 174 provides that the client must be MA eligible; must not access MA through a deductible; must be disabled under the standards of the

Social Security Administration (except that employment, earnings, and substantial gainful activity is not considered in the determination); must be employed; and must meet all MA eligibility factors found in PEMs 220, 221, 223, 225, 257, 265, and 270. PEM 174 Once an individual is found eligible for FTW, countable assets cannot exceed the asset limit for FTW in PEM 400. PEM 174

In the record presented, the Claimant's initial eligibility under the FTW was determined in 2005. At that time, the Claimant was found ineligible due to excess assets and benefits were scheduled for cancellation. The Claimant disputed the Department's determination and requested a hearing. As a result of the timely hearing request, the proposed negative action was deleted and the Claimant continued to receive benefits. On February 14, 2007, a hearing was held which resulted in a decision issued on March 21, 2007 which affirmed the Department's determination that the Claimant was not eligible for benefits due to excess assets. Due to Department error, the prior decision was not implemented and the Claimant continued to receive benefits. During the recertification process, the Claimant's MA benefits were again scheduled for closure due to excess assets. The Claimant again appealed resulting in this hearing.

The Claimant asserts that pursuant to the statutory provisions, he is permitted to accumulate up to \$75,000 in savings/assets and is permitted to maintain his individual retirement account without any negative consequence. The Claimant's position ignores the fact that an individual must meet the MA eligibility requirements, to include the asset limitations, prior to accumulation of assets under the FTW. The Claimant was previously determined to have excess assets thus not qualified for MA benefits. Qualification is a precursor to FTW eligibility. Due to department error, the Claimant continued to receive benefits however this does not change the fact that due to excess assets the Claimant was not, and is not, eligible for MA benefits.

Ultimately, the Department properly pended the Claimant's MA benefits for closure due to excess assets. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department established it acted in accordance with Department policy when it pended the Claimant's MA benefits for closure due to excess assets.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

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

Date Signed: 08/27/09

Date Mailed: 08/31/09

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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