

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: 2009-12746

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 19, 2009

Genesee 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, an in-person hearing was held on March 19, 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) On or about August 29, 2008, claimant's representative applied for MA and Retroactive MA on claimant's behalf.

(2) October 6, 2008, the department prepared an MA budgets for May and June 2008 and for current MA. Claimant's assets consisted of two savings accounts and one checking

account. The accounts were jointly/custodially held with other parties with claimant being the second name on each account. Total countable assets exceeded the \$2,000.00 limit for MA.

Department A; Claimant A.

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.

The value of the types of assets described above is the amount of the:

- Money/currency.
- Uncashed check, draft or warrant.
- Money in the account or on deposit.
- Money held by others.

Jointly owned assets are assets that have more than one owner.

An asset is unavailable if an owner cannot sell or spend his share of an asset:

- Without another owner's consent, and
- The other owner is not in the asset group, and
- The other owner refuses consent.

This section applies to the types of assets listed under “[CASH](#)” and “[RETIREMENT PLANS](#)” below.

- Count the entire amount unless the person claims and verifies a different ownership. Then, each owner's share is the amount he owns.

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

Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit no more than once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission in the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, or
The time period given has elapsed.

on the DHS-1171, Assistance Application.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source.

Program Administration Manual (PAM) 130

LEGAL BASE

MA

42 CFR 435.913(a)

42 CFR 435.916(b)

MCL 400.37

Public Law 109-171

In this case, claimant is joint owner of two bank accounts and custodian of one bank account. Finding of Fact 2. Department policy provides that jointly held property is not counted if client claims and verifies different ownership. PEM 400. Claimant credibly testified that the money in the accounts is not hers and that she had informed the department of this fact. No evidence was presented to establish claimant was provided proper opportunity as required by PAM 130 to resolve the apparent discrepancy between claimant's statements and the information contained on the bank records. 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 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: April 28, 2009

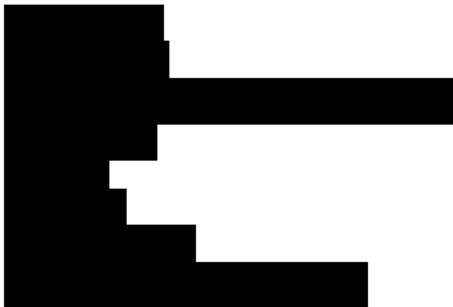
Date Mailed: April 29, 2009

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

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