

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

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Claimant

Reg. No.: 2009-15233

Issue No.: 2021

Case No.: ■■■■

Load No.: ■■■■

Hearing Date:

October 5, 2009

Oakland County DHS (3)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on October 5, 2009. The Claimant was represented by her attorney ■■■■ ■■■■

ISSUE

Did the Department properly deny the Claimant's MA application 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. On September 19, 2008, the Claimant, through her attorney, filed a completed application for MA and retro MA.
2. The Claimant had a bank account worth \$7,067.75, in June 2008, the first month that retro MA would have applied. In July, 2008, the balance was \$4,774.24, \$4,817.38 in August, 2008, and \$4,864.16 in September 2008.

3. On November 21, 2008, the Department sent the claimant's attorney notice that the claimant's MA and retro MA would be denied for excess assets.
4. On January 29, 2009, the Claimant filed a request for 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 (formerly 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 Department relies on PEM 400 which says in part:

For all other SSI-related MA categories, the asset limit is:

- \$2,000 for an asset group of one.
- \$3,000 for an asset group of two. (PEM 400, pp. 4-5)

In the instant case, the Claimant had a bank account worth \$7,067.75, in June 2008, the first month that retro MA would have applied. In July, 2008, the balance was \$4,774.24, \$4,817.38 in August, 2008, and \$4,864.16 in September 2008. Her assets therefore exceeded the allowable limit of \$2,000.00 throughout this period.

Claimant's attorney argues for the application of undue hardship.

UNDUE HARDSHIP SSI-Related MA Only

A client whose countable assets exceed the asset limit is nevertheless asset eligible when an undue hardship exists. Assume that denying MA will **not** cause undue hardship unless there is evidence to the contrary.

An undue hardship exists when the client's physician (M.D. or D.O.) states that:

Necessary medical care is **not** being provided, and
The client needs treatment for an emergency condition.

A medical emergency is any condition for which a delay in
treatment may result in the person's death or permanent
impairment of the person's health. (PEM 402, p.8).

In the instant case neither condition exists or was claimed. The claimant's attorney
argues that an error was made in the failure to spend amounts in the back accounts which would
have brought the assets within the MA limit.

This does not fall in the exception made for undue hardship and this ALJ finds that the
department correctly denied the MA and retro MA application based on excess assets.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of
law, AFFIRMS the Department's decision.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/10/09

Date Mailed: 11/10/09

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.

MJB/jlg

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