

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: 2009-16653

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 19, 2009

Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on November 19, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Medical Assistance (MA) application in January, 2009 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. The claimant applied for Medical Assistance (MA) on November 19, 2008.
2. The claimant did not meet the asset test for MA, as she had assets in the amount of \$56698.64. (Department Exhibit 3 – 20).

3. The claimant was mailed a decision notice on January 6, 2009, that informed her that her MA application was denied because she had assets in excess of \$2000.

(Department Exhibit 2).

4. The claimant submitted a hearing request on February 17, 2009.

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 policy states:

ASSETS

DEPARTMENT POLICY

FIP, SDA, LIF, Group 2 Persons Under Age 21, Group 2 Caretaker Relative, SSI-Related MA, and AMP

Assets must be considered in determining eligibility for FIP, SDA, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP.

- . “CASH” (which includes savings and checking accounts)
- . “INVESTMENTS”
- . “RETIREMENT PLANS”
- . “TRUSTS” PEM, Item 400.

Assets Defined

Assets means cash, any other personal property and real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. **Personal property** is any item subject to ownership that is **not** real

property (examples: currency, savings accounts and vehicles).
PEM, Item 400.

Overview of Asset Policy

Countable assets **cannot** exceed the applicable asset limit. Not all assets are counted. Some assets are counted for one program, but **not** for another program. Some programs do **not** count assets (see “PROGRAMS WITH NO ASSET TEST” below).

You must consider the following to determine whether, and how much of, an asset is countable.

- . Availability
 - .. see “AVAILABLE”
 - .. see “JOINTLY OWNED ASSETS”
 - .. see “NON-SALABLE ASSETS”

Exclusions. PEM, Item 400, p. 1.

An asset is countable if it meets the availability tests and is **not** excluded. PEM, Item 400, p. 1.

You must consider the assets of each person in the asset group. See the program’s asset group policy below. PEM, Item 400, p. 1.

An asset converted from one form to another (example: an item sold for cash) is still an asset. PEM, Item 400, p. 1.

FIP, SDA, LIF, G2U, G2C, and AMP Only

The following types of assets are the only types considered for FIP, SDA, LIF, G2U, G2C, and AMP:

- . “CASH” (which includes savings and checking accounts)
- . "INVESTMENTS"
- . "RETIREMENT PLANS"
- . "TRUSTS." PEM, Item 400.

LIF Asset Limit

LIF Only

\$3,000. PEM, Item 400, p. 4.

SSI-Related MA Asset Limit

SSI-Related MA Only

For Freedom to Work (PEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRA's and 401(k)'s) may be of unlimited value.

For Medicare Savings Program (PEM 165) and QDWI (PEM 169) the asset limit is:

- . \$4,000 for an asset group of one
- . \$6,000 for an asset group of two

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, Item 400, p. 4.

RETIREMENT PLANS

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

This section is about the following types of assets:

- . Individual retirement accounts (IRAs)
- . Keogh plans (also called H.R. 10 plans)
- . 401k plans
- . Deferred compensation
- . Pension plans
- . Annuities--An annuity is a written contract establishing a right to receive specified, periodic payments for life or for a term of years. PEM, Item 400, pp. 14-15.

Retirement Plan Value

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

The value of these plans is the amount of money the person can currently withdraw from the plan. Deduct any early withdrawal penalty, but not the amount of any taxes due.

Funds in a plan are **not** available if the person must quit his job to withdraw any money. PEM, Item 400, p. 15.

LIFE INSURANCE

SSI-Related MA

A **life insurance policy** is a contract between the policy owner and the company that provides the insurance. The company agrees to pay money to a designated beneficiary upon the death of the insured. Pure Endowment Life Insurance Contracts pay out on a specific date in the future not just when the beneficiary dies, and does not meet the definition of life Insurance for Medicaid. PEM, Item 400, p. 23.

Life Insurance Definitions

SSI-Related MA

Cash surrender value (CSV) - the amount of money the policy owner can get by canceling the policy before it matures or before the insured dies. It may be titled the cash surrender value or the cash value. PEM, Item 400, p. 24.

Face value (FV) - the amount of the basic death benefit contracted for at the time the policy is purchased. It might be titled the face value, face amount, amount of insurance, amount of policy or sum insured. It does **not** include dividends or additional amounts payable because of accidental death or other special circumstances. PEM, Item 400, p. 24.

Insured - the person whose life the policy insures. PEM, Item 400, p. 24.

Insurer - the company that contracts with the policy owner. PEM, Item 400, p. 24.

Policy owner - the person who has the right to change the policy. This is usually the person who pays the premiums. The policy owner and the insured can be different people. PEM, Item 400, p. 24.

Life Insurance Value

SSI-Related MA

A life insurance policy is an asset if it can generate a CSV. A policy is the policy owner's asset.

- . A policy's value is its CSV. A policy can generate a CSV, but have a CSV of zero. Such a policy is an asset with zero value.
- . Generally, term insurance does **not** have a CSV. Whole or straight life policies generate a CSV.
- . The CSV usually increases over time. A loan against a policy reduces its CSV. Pre-death payment of the death benefit might reduce the CSV. See "**Accelerated Life Insurance Payments**" in PEM 500 about the payments received.
- . CSV and FV are **not** the same thing. PEM, Item 400, p. 24.

In this case, the claimant has several retirement, life insurance and IRA accounts. The countable amount of these assets is valued at over \$56,000.00. The claimant does not dispute that at the time of her application, she did have these assets. Nor did the claimant dispute the countable value of the assets.

The claimant applied for SSI-related MA, indicating that she is disabled and no longer able to work. The asset limit for SSI-related MA is \$2000. PEM 400. Clearly, she is over the asset limit for SSI-related MA. Even if the claimant is considered for other categories of MA benefits, she is still going to be over the asset limit. For example, both the Adult Medical Program (AMP) and the Low-Income Families (LIF) MA have an asset limit of \$3000.00. PEM 400. Therefore, there is no category of MA that she would be eligible for with over \$56,000.00 in assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant was not eligible for MA benefits due to excess assets and denied her application in January, 2009.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2009

Date Mailed: December 8, 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 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.

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