

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: 2009-17639

Issue No: 1027-2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 6, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on January 6, 2010.

ISSUE

Did the Department of Human Services (Department) properly close Claimant's Medical Assistance (MA) and Family Independence Program (FIP) for excess assets?

FINDINGS OF FACT

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

1. On October 17, 2008, a fraud tip was received by the Department alleging the Claimant was out of the country and had been for four months. This caller further alleged the Claimant's children were with the father and not residing with her. The tip also alleged the Claimant had undisclosed assets and income.

2. On October 20, 2008, the Claimant completed a new application and signed it. Claimant failed to indicate any ownership of [REDACTED].
3. On January 27, 2009, new budgets were completed for MA and FIP. The Claimant was determined to have excess assets and her case was closed.
4. On February 19, 2009, Claimant filed a request for 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).

Michigan provides MA for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant falls under Group 2 MA classification which consists of client's whose eligibility results from the state designating types of individuals as "medically needy." MCL 400.106; MSA 16.490 (16), MCL 400.107; MSA 16.490(17), and PEM, Item 105.

In the present case, Claimant's case was triggered for an investigation after the state received a fraud tip. The Claimant was alleged to have property and income not previously reported to the Department. The Claimant completed and signed a new application not indicating home ownership. The Claimant acknowledged, during the hearing, she in fact was renting a place to live. The Claimant testified she was renting a home that she owned for \$900 a month. This was not previously disclosed to the Department. The Claimant was not living at the

residence she owned and instead chose to rent the property. The house in question at [REDACTED] is estimated to be worth \$55,000.

Policy can be found in BEM 400:

Assets Defined

Assets mean 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).

Overview of Asset Policy

FIP asset rules apply to RAPC

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 both of the following to determine whether and how much of an asset is countable.

Exclusions.

An asset is countable if it meets the availability tests and is **not** excluded.

The assets considered by FIP, RAPC, SDA, LIF, G2U, G2C, and AMP are limited. See below.

You must consider the assets of each person in the asset group. See the program's asset group policy below.

An asset converted from one form to another (example: an item sold for cash) is still an asset.

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](#)

FIP, RAPC AND SDA ASSET ELIGIBILITY

FIP, RAPC and SDA

Policy Overview

Determine asset eligibility prospectively using the asset group's assets from the benefit month. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested.

Application

At **application**, do not authorize the Family Independence Program (FIP), Refugee Assistance Program Cash (RAPC), or State Disability Program (SDA) for future months if the person has excess assets on the processing date.

Pending Application Months

For pending FIP, RAPC, and SDA applications, use asset policy that is in effect for the month you are determining eligibility.

Ongoing

If an **ongoing** FIP, RAPC, or SDA recipient has excess assets, initiate closure. However, reinstate the program if it is verified that the excess assets are under the limit on or before the timely hearing request date.

FIP, RAPC and SDA Only

Bridges produces an over payment referral for benefits issued after the last month of eligibility only if a closure delay was caused by the group's failure to report the asset change timely. BAM 700 and 705 explain over-issuance and recoupment policies and procedures.

FIP, RAPC and SDA Only

\$3,000

AMP Asset Limit

AMP Only

\$3,000

MA ASSET ELIGIBILITY

LIF, G2U, G2C, AMP and SSI-Related MA Only

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories.

Do **not** deny or terminate TMA-Plus, Healthy Kids or Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining LIF, G2U, G2C or SSI-related MA eligibility.

Use the special asset rules in [BEM 402](#) for certain married L/H and waiver patients. See BPG Glossary, for the definition of L/H patient and [BEM 106](#) for the definition of waiver patient.

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.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment (see [BEM 405](#)).

LIF Asset Limit

LIF Only

\$3,000

G2U and G2C Asset Limit

G2U and G2C

\$3,000

The Claimant fully acknowledged ownership of the property and she was receiving rental income from the property. Since the Claimant was using the property in question as a rental property, the home becomes an asset which has to be considered when determining eligibility. The rental income received from the property would be properly considered income and not an

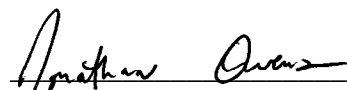
asset. As indicated above, both MA and FIP have asset limits and the Claimant exceeds both program assets with the value of the house. The home, at the time of discovery, was “an available” asset to the Claimant and, therefore, must be considered. In addition, the Department had additional documentation demonstrating some other possible assets not disclosed at application (such as vehicles not disclosed). The Department also presented evidence regarding the possible failure on the part of the Claimant to report her husband being in the home. This Administrative Law Judge will not go further into a discussion of those potential issues or assets as the Claimant is clearly over the asset limit with just considering the house proven to be owned by her.

Therefore, the Department properly determined the Claimant ineligible for MA and FIP based upon excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly closed Claimant’s MA and FIP case for excess assets.

Accordingly, the Department’s decision is hereby AFFIRMED.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/13/10

Date Mailed: 04/14/10

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

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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.

JWO/dj

cc:

