

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: 2009-18272

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 9, 2009

Clare 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, a telephone hearing was held on July 9, 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 Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

(1) March 28, 2007, claimant applied for MA.

(2) November 18, 2008, an MA budget was completed for the month of

January 2007. Claimant's countable assets were listed as bank account [REDACTED] 1976 dump truck

██████; 1994 truck ██████; 1986 truck ██████ Claimant had excess assets to qualify. Department A, pages 38-41.

(3) November 18, 2008, the department prepared an MA budget for July 2007. Claimant's countable assets are limited bank account ██████; 1976 dump truck ██████ 1994 truck ██████; 1986 ██████. Claimant had excess assets for MA. Department A, pages 42-45.

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.

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.

Count an equal share for each owner.

Exclude **employment assets** that:

- Are required by a person's employer, or
- Produce income directly through their use.

Such assets remain excluded when a person is unemployed only if the person intends to return to that type of work.

Program Eligibility Manual (PEM) 400

Social Security Act, Sections 1902(a)(10); (r)(2)
Deficit Reduction Act of 2005
42 CFR 435.840 - .845
MCL 400.106

In this case, claimant owns four vehicles that are titled solely to him. Accordingly, they are not jointly owned and claimant has the legal right to sell them. Dealer value statements for the vehicles are contained in the record: 2002 Dodge - [REDACTED]; 1976 IHC tractor - [REDACTED]; and 1994 Ford - [REDACTED]. Claimant also owns a 1986 GMC. No value statement was provided and best available evidence of value was used. Vehicle was valued at [REDACTED] By claimant's written statement and sworn testimony, none of the vehicles produce income directly by their use. Accordingly, the vehicles are countable at the values so stated on proofs. Therefore, the department has met its burden of proof and its action must be upheld. Finding of Fact 1-2; Department A, pages 23-32.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is **HEREBY UPHELD**.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 8, 2009

Date Mailed: September 9, 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

cc:

