

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: 2009-20887

Issue No: 2021

Case No:

[REDACTED]

Load No:

Hearing Date:

November 5, 2009

St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 5, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly close claimant's Medicaid (MA) case at review based on 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) In January 2009, claimant completed/filed an updated Assistance Application (DHS-1171), as annually required (Department Exhibit #1, pgs 1-5).

(2) On this application claimant disclosed he had an IRA through [REDACTED], as well as various savings/checking accounts (Department Exhibit #1, pg 3).

(3) When written verification of the amounts of money in claimant's IRA and checking/savings accounts was returned to the department, it showed claimant had more than [REDACTED] which is the asset limit for MA program eligibility specified at BEM Item 400 (Department Exhibit #2, pgs 1-6).

(4) On February 24, 2009, the department sent claimant written notice advising him his MA case would be closed due to excess assets.

(5) On March 13, 2009, claimant filed a hearing request to protest this closure; his hearing was held on November 5, 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).

The applicable departmental 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.

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.

SSI Related MA

All types of assets are considered for SSI-related MA categories. PEM, Item 400, p. 2.

CASH

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

This section is about the following types of assets:

- . Money/currency
- . Uncashed checks, drafts and warrants
- . Checking and draft accounts

- . Savings and share accounts
- . Money market accounts
- . LTC patient trust fund
- . Money held by others--**Example:** Sally does **not** have a bank account. She puts money in her mother's checking account, but it is **not** a joint account.
- . Time deposits--A **time deposit** is a contract between a person and a financial institution whereby the person agrees to leave funds on deposit for a specified period in return for a specified interest rate. Common time deposits are certificates of deposit (CDs) and savings certificates. PEM, Item 400, p. 9.

Value of Cash

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

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

Exception: Reduce the value of a time deposit by the amount of any early withdrawal penalty, but **not** the amount of any taxes due. PEM, Item 400, p. 10.

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.

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

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FIP/SDA/AMP Asset Group

FIP, SDA and AMP Only

The asset group is the program group. See PEM 210 and 214. PEM, Item 400, p. 3.

The facts of record in this case are clear. Claimant is in a one person asset group. Claimant's total, combined assets exceeded the MA program's asset limit at review in February 2009. As such, department's actions were completely correct and fully in compliance with departmental policy. No basis exists for a finding that claimant's MA case was closed erroneously.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly closed claimant's MA case at review based on excess assets.

Accordingly, the department's action is AFFIRMED.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 10, 2009

Date Mailed: November 16, 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.

MBM/db

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