

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: 2009-21921

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 9, 2009

Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 December 9, 2009. Claimant's representative personally appeared and testified. Claimant is deceased. Claimant was also represented by Attorney [REDACTED].

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA) based upon its determination that claimant possessed 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) On September 30, 2008, an application was received on claimant's behalf for Medical Assistance benefits.

(2) On November 6, 2008, a Verification Checklist was sent requesting bank statements and cash values of CDs.

(3) On December 10, 2008, the application was denied due to excess assets based on the verification information that was available.

(4) On January 30, 2009, a second application was received for Medical Assistance benefits.

(5) On February 6, 2009, the application was again denied due to excess assets.

(6) On February 12, 2009, claimant's representative filed a request for a hearing to contest the department's negative action.

(7) On March 3, 2009, the January 30, 2009 application was reinstated and a new Verification Checklist was sent out giving the claimant additional time to return verifications.

(8) The department determined that claimant had excess assets for purposes of Medical Assistance benefits based upon a CD in the amount of [REDACTED] which had a maturity date of [REDACTED]. (Exhibit 1)

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).

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.

SSI Related MA

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

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.

AVAILABLE

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

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. PEM, Item 400, p. 6.

Assume an asset is available unless evidence shows it is **not** available. PEM, Item 400, p. 6.

Claimant's representative testified on the record that on July 7, 2008 the claimant cashed in the Certificate of Deposit and on [REDACTED] the claimant paid the nursing home [REDACTED] on a [REDACTED] bill. The claimant's representative also testified that she did not notify the department that she had cashed in the Certificate of Deposit. The [REDACTED] Certificate of Deposit receipt indicates that on [REDACTED] the current balance for the Certificate of Deposit was [REDACTED] and had a maturity date of [REDACTED]. Claimant's statements on the record are inconsistent with the evidence contained in the file. Even if claimant had cashed the Certificate of Deposit [REDACTED] and paid the nursing home bill [REDACTED], she did not notify the department of that pertinent information. Therefore, the department correctly determined that claimant had excess available assets based upon the verifications that were available. This is no evidence in the record that the Certificate of Deposit was cashed in on [REDACTED]. Therefore, the department's determination that claimant has excess assets is correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that claimant had in excess of \$2,000 in countable available assets for the September 30, 2008 application for Medical Assistance benefits. There is no evidence in the record that indicates when the Certificate of Deposit was cashed in and there is no evidence in the record indicating that the Certificate of Deposit was cashed in by September 2008. Therefore, claimant was not eligible to receive Medical Assistance benefits for the September 30, 2008 application. There was no retroactive Medical Assistance application in this case.

Accordingly, the department's decision is AFFIRMED.

/s/

Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 4, 2010

Date Mailed: January 4, 2010

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.

LYL/vmc

cc:

