STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ▉▉▉▉▉▉

        Claimant

Reg. No: 2009-31944
Issue No: 2021
Case No: ▉▉▉▉▉▉
Load No: ▉▉▉▉▉▉
Hearing Date:
October 8, 2009
Oceana 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 October 8, 2009. Claimant personally appeared and testified. She was assisted by ▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉▉.

ISSUE

Did the department properly deny claimant's September 3, 2008 Medicaid (MA) application 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 September 2008 while living in ███████████████, claimant filed an MA application on September 3, 2008.

(2)   In October 2008, claimant moved to her father's house in ██████████ ███████.

(3)   Claimant's MA application was transferred to her new county of residence and processed to completion at that local Department of Human Services (DHS) office.

(4)   That local DHS office requested claimant to provide verification of assets.

(5)   On December 23, 2008, the department received verification showing claimant and her father jointly owned assets in checking/savings accounts which exceeded the ██████ asset limit at all times relevant to application processing (Department Exhibit #1, pgs 1-13).

(6)   On March 9, 2009, the local office mailed written notice to claimant denying her MA application due to excess assets.

(7)   On March 16, 2009, claimant filed a hearing request to protest this denial.

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.

. <u>"CASH"</u> (which includes savings and checking accounts)
. "INVESTMENTS"
. "RETIREMENT PLANS"
. <u>"TRUSTS"</u> 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 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.

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> 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.
>
> An asset is countable if it meets the availability tests and is **not**
> excluded. PEM, Item 400, p. 1.
>
> Assume an asset is available unless evidence shows it is **not**
> available. PEM, Item 400, p. 6.
>
> At **application,** use the assets from the month of eligibility being
> determined. If excess assets exist at application, the group must
> verify that it meets the asset limit for any future month of
> eligibility. PEM, Item 400, p. 3.

The verifications claimant provided to the local office during disputed application

processing establish without question she was the owner of cash assets in excess of the MA

program's   asset limit. The fact that claimant did not know about the accounts does not

negate her legal ownership rights. At all times relevant, claimant had the legal right to use and/or

dispose of the disputed assets. Additionally, she presented nothing during application processing

which would require the department to assume these assets were legally "unavailable" to her. In

fact, claimant's father testified some of those funds were used to pay claimant's medical

expenses. As such, the department properly followed policy to the letter in this case. Absolutely

no basis exists in fact, law or policy to reverse the department's MA application denial.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's September 3, 2008 MA application 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: _October 12, 2009_____

Date Mailed: _October 13, 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

cc: