

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: 2009-32724
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 9, 2009
Baraga 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 December 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 eligibility for Medical Assistance (MA).

FINDINGS OF FACT

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

(1) February 5, 2009, claimant applied for MA and retroactive MA. Department Exhibit A.

(2) April 3, 2009, the department prepared an MA budget. Claimant was determined to have excess assets to qualify. Department Exhibit A.

(3) April 3, 2009, the department sent claimant written notice that the application was denied.

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 must be considered when determining eligibility. 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. Countable assets cannot exceed the applicable asset limit.

The value of real property is the equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision. To determine the value of real property used:

- Deed, mortgage, purchase agreement or contract.
- State Equalized Value (SEV) on current property tax records multiplied by two.
- Statement of real estate agent or financial institution.
- Attorney or court records.
- County records.

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, the department properly determined claimant's countable assets. The real estate included in the department's eligibility determination is non homestead. It has an SEV value of [REDACTED]. Two times the SEV value less the amount owed of [REDACTED] leaves a countable asset value of [REDACTED]. Finding of Fact 2; See Department Exhibit A, pgs 19-21B. At hearing, claimant's power of attorney (POA) testified that he attempted but did not have opportunity to speak to the department regarding the value of the property. Documentation in Department Exhibit A (pg 82) indicates that the department and POA discussed the value of this property on March 16, 2009. The note indicates that POA told the department "they won't change SEV and reevaluate value." The record contains no evidence that the claimant provided a real estate appraisal or any other official notice by a recognized professional that the property was of lesser value than the department counted. Accordingly, the department has met its burden of proof and its action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services acted in compliance with department policy.

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: December 29, 2009


Date Mailed: December 30, 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

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