

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: 2009-33503
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 6, 2010
Eaton 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 May 6, 2010. Claimant was represented by [REDACTED].

ISSUE

Whether the Department of Human Services (department) properly 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) On or about April 27, 2009, the department received claimant's application for MA and retroactive MA.

(2) May 11, 2009, the department sent claimant and her representative a Verification Checklist (DHS-3503) indicating required proofs and setting a due date of May 21, 2009.

Department Exhibit A, pg 3.

(3) On or about May 20, 2009, the department received claimant's asset verification (DHS-503) indicating claimant had [REDACTED] in a safe at home and [REDACTED] 6 in the bank.

Claimant signed the asset verification affidavit on April 13, 2009. Department Exhibit A, pgs 7-8.

(4) June 23, 2009, the department sent claimant and representative notice that the application was denied due to excess assets.

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:

Assets must be considered in determining eligibility for MA. Assets mean cash, any other personal property and real property. Countable assets cannot exceed the applicable asset limit. The value of cash assets is the amount of the:

- Money/currency.
- Uncashed check or warrant.

- Money in the account or on deposit.
- Money held by others.

Do not count funds treated as income by a program as an asset for the same month for the same program. Bridges Eligibility Manual (BEM) 400; Social Security Act, Sections 1902(a)(10); (r)(2); Deficit Reduction Act of 2005; 42 CFR 435.840/.845; MCL 400.106.

Count as unearned income all payments made to Native Americans from gaming revenues. Do not exclude any part of these payments. If the payment is intended to cover several months, use income average policy, if any, for the program being tested. BEM 500; Social Security Act Sections 1902(a)(10), 1931; 42 CFR 435, Subparts H and I; MCL 400.106.

In this case, the department has asserted that claimant has excess assets to qualify for MA. The department included as assets the [REDACTED] that claimant had stored in a safe at home and [REDACTED] in a bank account as so stated on claimant's asset verification affidavit on April 13, 2009 and provided to the department on May 20, 2009. At hearing, claimant testified that she gave the [REDACTED] 0 to a medical provider during February 2009. It is reasonable to believe that at the time claimant wrote the affidavit she was clear as to the amount of money in her safe at home. It is more likely that claimant would be mistaken as to the actual date that she gave the money to a medical provider during a hearing in May 2010. Accordingly, a preponderance of the evidence establishes that during April and May 2009, claimant had [REDACTED] in cash in a safe at her home. Finding of Fact 1-4. However, it is unclear as to which part of the funds contained in claimant's bank account as so stated on the asset verification affidavit are actually assets versus income from tribal gaming. According to the verification of record, it appears that at least part of these funds are due to gaming income and thus should not

be counted as an asset. Accordingly, the claimant has met its burden of proof that a likely error has occurred in the department's determination of eligibility for MA. Accordingly, the department's action cannot 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 did not properly determine claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's countable income and countable assets for purposes of MA eligibility determination in compliance with this Decision and Order and department policy.

/s/

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

Date Signed: August 20, 2010

Date Mailed: August 26, 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 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.

2009-33503/jab

JAB/db

cc:

