

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: 2009-35226
Issue No: 2023
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 21, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 April 21, 2010.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) application on the grounds of 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 6/3/09 claimant applied for Medicaid for himself and his wife. Claimant was receiving Medicaid at the time for his child.
- (2) Claimant's category is Group 2 Caretaker Medicaid.

(3) Un-refuted evidence on the record is that claimant had as of the date of the application, as listed on the application, \$ [REDACTED] in a bank account.

(4) Claimant's asset limit is \$ [REDACTED].

(5) On 7/23/09 the DHS issued a denial notice on the grounds of excess assets.

(6) On 7/29/09 claimant filed a hearing request.

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).

Applicable policy and procedure to the case herein is found primarily in BEM Item 400. This item discusses assets on the grounds under which assets may be available to an individual.

Applicable relevant policy states in part:

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 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.

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

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.

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.

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.

Under the above cited authority, a checking or savings bank account is considered to be cash. There is no evidence on the record that this account was not available. Policy requires counting the amount as available. The amount available based upon the evidence was \$ [REDACTED]. The asset limit for the program claimant applied for is \$ [REDACTED]. As such, claimant was in excess assets.

After careful review of the substantial and credible evidence on the whole record, this ALJ finds that the department directly denied claimant's MA application on the grounds that the \$ [REDACTED] in the bank account exceeded the [REDACTED] asset limit. As such, the department's actions were correct and this ALJ must uphold the denial.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department's actions were correct.

Accordingly the department's denial was correct and is hereby upheld.

/s/ _____
Janice G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 28, 2010

Date Mailed: May 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.

JS/lk

cc:

