

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: 2009-6248
Issue No: 2023
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 24, 2009
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, an in-person hearing was held on Tuesday, February 24, 2009. The claimant personally appeared and testified with her attorney, [REDACTED]

ISSUE

Did the department properly determine that the claimant had excess assets for Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

- (1) The claimant was a recipient of MA with a review due November 2008.
- (2) On October 6, 2008, the claimant returned the review application.

(3) On October 24, 2008, the department caseworker completed the claimant's MA review where she was found no longer eligible due to excess assets for home and real property because the claimant had moved out of her home, but still owned it and was renting an apartment while her home was for sale. (Department Exhibit C-F)

(4) On October 24, 2008, the department caseworker sent the claimant a notice that she no longer qualified for MA because her countable assets were more than the [REDACTED] asset limit. (Department Exhibit L)

(5) On November 7, 2008, the department received a hearing request from the claimant, contesting the department's negative action.

(6) During the hearing, the claimant's attorney presented evidence that the claimant's property was for non-saleable assets because it had been on the market since [REDACTED] and still not been sold.

(7) After the hearing, the department reconsidered that the claimant's house is considered her homestead and should be excluded even though she is renting an apartment in a different city, which when excluded she would qualify for MA benefits. The claimant owns her home, but does not own the apartment that she is renting, leaving her eligible by owning only one homestead.

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).

In the present case, the department has reconsidered that the claimant's house is considered her homestead and should be excluded even though she is renting an apartment in a different city, which when excluded would make her eligible for MA. If the claimant does not agree with the determination, she may file another request for a hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has correctly determined that the claimant's homestead is an excluded asset and the department is ORDERED to reinstate the claimant's MA benefits retroactive to November 2008 because the claimant's homestead is an excluded asset, if it has not already done so.

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

Date Signed: March 24, 2009

Date Mailed: March 25, 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.

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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.

CGF/vmc

cc:

