

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.: 2009-10835
2009-9897
2009-9643

Issue No.: 2021

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

April 8, 2009

Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's requests for hearing received by the Department. After due notice, a hearing was conducted from [REDACTED] on April 8, 2009. The Claimant appeared and testified. Maureen McGrew appeared on behalf of the Department.

ISSUE

Whether the Department properly terminated the Claimant's Medical Assistance ("MA") benefits based upon excess assets?

FINDINGS OF FACT

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

1. The Claimant is a MA recipient.
2. As part of the redetermination, the Claimant submitted a copy of her bank statement which had an ending balance of [REDACTED] as of October 17, 2008. (Exhibit 1)

3. The Claimant is enrolled in college and part of the funds in the account were as a result of a student loan refund.
4. The Department included the [REDACTED] as a countable asset. (Exhibit 2)
5. On November 22, 2008, the Department notified the Claimant that her MA coverage would be cancelled effective December 4, 2008 due to excess assets. (Exhibit 3)
6. The Claimant submitted three hearing requests protesting the cancellation of benefits.

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, formally known as the Family Independence Agency, 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 in determining MA eligibility. PEM 400, p. 1 Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. PEM 400, pp. 1, 6 Available means that someone in the asset group has the legal right to use or dispose of the asset. PEM 400, p. 6 Educational income such as grants, loans, work-study, scholarships, assistance ships, stipends, and fellowships for education are excluded as income and as an asset only if the funds are **not** commingled with countable assets and are not in time deposits. PEM 500, p. 12; PEM 400, p. 12

In this case, a student loan refund(s) was deposited in the Claimant’s checking account and commingled with other funds which resulted in the asset becoming countable. Ultimately,

the Department established it acted in accordance with Department policy when it terminated the Claimant's MA benefits based on excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with department policy when it terminated the Claimant's MA benefits based on excess assets.

Accordingly, it is Ordered:

1. The Department's determination is AFFIRMED.

/s/
Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/15/09

Date Mailed: 04/15/09

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.

CMM/jlg

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