

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: 2009-125

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 1, 2009

Montcalm 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 September 1, 2009.

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) September 9, 2008, claimant applied for MA.
- (2) September 9, 2008, the department prepared an MA budget. Cash assets (not including other countable assets) were [REDACTED]. Claimant had excess assets to qualify. Department A.

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:

Countable assets cannot exceed the applicable asset limit. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. The asset limit for FIP-related MA is \$3,000.00.

Not all assets are counted.

You must consider the following to determine whether, and how much of, an asset is countable:

- An asset is countable if it meets the availability tests and is not excluded.
- 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.
- Assume an asset is available unless evidence shows it is not available.

The value of the types of assets described above is the amount of the:

- Money/currency.
- Uncashed check, draft or warrant.

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

Loan exclusion applies only if the funds are **not** commingled with countable assets and are not in time deposits.

This exclusion does **not** apply to:

- Interest earned on borrowed money.
- Purchases made with borrowed money.

Exclude funds in a separate account under a student's name and accrued solely from a student's earnings. See "[Student's Earnings](#)" in PEM 500.

Program Eligibility Manual (PEM) 400

P.A. 280 of 1939, as amended

Social Security Act, Sections 1902(a)(10); (r)(2)

Deficit Reduction Act of 2005

42 CFR 435.840 - .845

MCL 400.106

Disregard the earnings of a person who is:

- Under age 18, and
- Attending elementary, middle or high school, and
- Living with someone who provides care or supervision.

PEM 500

MA

Social Security Act Sections 1902(a)(10), 1931

42 CFR 435, Subparts H and I

MCL 400.106

In this case, the department properly determined claimant had excess countable assets to qualify. At hearing, claimant asserted that her money had been saved through the years to pay for college. Claimant is over age 18, does not attend elementary, middle or high school, and does not live with some one who provides care. Claimant must meet these requirements to

qualify as a student whose cash assets may be excluded. Thus, the department has met its burden of proof that claimant's bank account is a countable MA asset. Finding of Fact 2;

PEM 400, 500.

Claimant took out student loans with which she purchased certificate(s) of deposit. Certificates of deposit are timed accounts. Proceeds from loans that are placed in timed accounts do not qualify for the loan exclusion provision of PEM 400. Accordingly, the department has met its burden of proof the certificate(s) of deposit are countable MA assets. Finding of Fact 2; PEM 400.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

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: September 18, 2009

Date Mailed: September 22, 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.

2009-125/jab

JAB/db

cc:

