

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: 2009-13584
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 14, 2009
Alpena 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 14, 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) October 27, 2008, claimant and spouse applied for SSI-related MA.
- (2) December 4, 2008, the department prepared an MA budget. The department determined claimant has the following countable assets: Savings account - [REDACTED] savings account [REDACTED] for a total of [REDACTED]. Claimant had excess assets for Medical Savings Program (MSP) and other MA programs. Department A.

(3) On a later date, the department received new information regarding the value of the [REDACTED]: its value was found to be worth [REDACTED]. Claimant's bank account was found to have a lower value of [REDACTED]. This resulted in total countable assets of [REDACTED].
Department A; Hearing Summary (DHS-3050).

(4) Claimant conceded on the record that the figures stated in Finding of Fact (FOF) 3 are accurate.

(5) Claimant has excess assets to qualify for MA programs other than MSP.

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 SSI-related MA, asset group of 2 is \$3000.

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.

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

In this case, the department determined the value of claimant's countable assets and later, when additional information became available, revised the determination. Following the second determination, claimant remained ineligible due to excess assets. At hearing, claimant asserted that money saved for living expenses such as taxes, heating, and insurance should not be counted. Claimant asserted that money set aside with the understanding that it would eventually be spent on burial expenses should not be included. These opinions are not consistent with department policy which states that money held in an account is countable. Burial funds must be clearly designated and not commingled with other funds. Claimant's funds were held in one account and there had been no clear designation of the funds as being for burial. Accordingly, the department has met its burden of proof and its action must be upheld. FOF 1-5; 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 1, 2009

Date Mailed: September 2, 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.

JAB/db

cc:

