

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: 2009-14865

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 15, 2009

Calhoun 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 October 15, 2009.

ISSUE

Whether the Department of Human Services (department) properly 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 29, 2008, the department received claimant's application for MA.

Department Exhibit A, pgs 1-4.

(2) November 3, 2008, the department sent claimant a Verification Checklist (DHS-3503) requesting proof of the resale value of claimant's land contract. A due date was set for November 13, 2008. Department Exhibit A, pg 5.

(3) November 21, 2008, the department sent claimant written notice that the application was denied due to excess assets. As claimant did not provide proof of the resale value of her land contract, the department used claimant's stated value of the land contract:

██████████ Department Exhibit A, pg 2, 7.

(4) December 30, 2008, claimant reapplied for MA. Department Exhibit A, pgs 8-11. Attached to the application was a statement that indicated a cash offer for claimant's land contract of ██████████. Department Exhibit A, pg 12.

(5) January 12, 2009, the department again denied claimant's application due to excess assets. Department Exhibit A, pgs 13-14.

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 assts 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 one is

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Not all assets are counted. The department must consider the following to determine whether and how much of an asset is countable:

- An asset is countable if it meets the availability test 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 dispose of or use the asset.
- Assume an asset is available unless evidence shows it is not available. Exclude the asset group's homestead. Land contracts are a countable asset for MA. The value of a land contract or mortgage is the amount it can be sold for in the holder's geographic area on short notice (usually at a commercial discount rate) minus any lien on the property the holder must repay. Bridges Eligibility Manual (BEM) 400; Social Security Act, Sections 1902(a)(10); (r)(2); Deficit Reduction Act of 2005; 42 CFR 435.840-845; MCL 400.106.

When real property is sold on the installment plan (example: land contract), count each installment payment, minus allowable expenses, as unearned income. Other sales of real property are conversion of an asset from one type to another. BEM 500; Social Security Act Sections 1902(a)(10), 1931; 42 CFR 435, Subparts H and I; MCL 400.106.

In this case, claimant sold her homestead on land contract in 2006. Thus, the property was no longer claimant's homestead. The purchaser was to make monthly payments to claimant on the contract. These payments are countable income as so stated in BEM 500.

Claimant's land contract for the sale of her former homestead is a countable asset when determining claimant's eligibility for MA. Claimant verified that a cash offer was made for the contract on December 23, 2008, in the amount of ██████████. Accordingly, the countable value

of the land contract for MA purposes is [REDACTED]. The value exceeds the asset limit for MA.

Finding of Fact 4.

At hearing, claimant's representative asserted that claimant's former homestead remained an exempt asset after it was sold. Representative asserted that only the payment to the claimant should have been counted. Representative also asserted that the property was not saleable. These statements are not consistent with department policy and other documentary evidence of record. Accordingly, the department has met its burden of proof and its actions must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly 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: August 18, 2010

Date Mailed: August 19, 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 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.

2009-14865/jab

JAB/db

cc:

