

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: 2009-14918

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 5, 2009

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 November 5, 2009. Claimant was present and testified. Don Baibak, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly deny claimant's Medical Assistance (MA) application for excess assets?

FINDINGS OF FACT

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

- (1) Claimant applied for MA benefits on December 26, 2008.

(2) The department received asset verifications on January 12, 2009. (Department Exhibit 1, pgs. 4-18)

(3) On January 22, 2009 the department calculated the MA budget and determined claimant had assets in excess of the program limits. (Department Exhibit 1, pg. 3)

(4) On January 22, 2009 the department denied the MA application. (Department Exhibit 1, pg. 1)

(5) Claimant filed a hearing request to contest the MA determination on January 30, 2009.

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).

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. PEM 400. Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles). The asset limit for MA eligibility for a group of one is \$3,000. PEM 400.

In the present case, the department received asset verifications from multiple bank and credit union accounts. (Department Exhibit 1, pgs. 4-18) Using the balances shown for these accounts, the department determined claimant had assets totaling \$4,287. (Department Exhibit 1, pg. 3) Therefore, the department denied the MA application for assets in excess of the \$3,000 limit.

Claimant testified the money in the savings account was really owed to her mortgagee company and provided a statement showing a late amount of \$4,421.88. (Claimant Exhibit 2) However, claimant testified she was not making the mortgage payments because she knew she was going to lose her home. Claimant testified that the bank advised her to not continue making payments but instead save the money to use towards her next home. Claimant did not use these funds to pay her mortgage debt and by her testimony, had no intention to do so. Accordingly, the funds in claimant's savings account were available to her and were therefore properly included in the asset calculation.

However, in reviewing the MA budget calculated by the department, the department erred by using figures from bank verifications over two different months. The department used November 30, 2008 figures from [REDACTED] of \$1,260.76 savings and \$21.17 for checking. (Department Exhibit 1, pgs. 3 and 9) The department then used a December 15, 2008 checking balance of \$2,762.63 and December 31, 2008 savings balance of \$231.21 from [REDACTED]. (Department Exhibit 1, pgs. 3, 11, and 16). The figures used for the minimal balances in the five [REDACTED] accounts that totaled \$11.32 were from the period of December 8, 2008 to January 8, 2009, during which there were no transactions in any of these accounts. (Department Exhibit 1, pgs. 3-8) Under PEM 400, asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset

limit at least one day during the month being tested. The department did not properly calculate claimant's assets because figures from multiple days in two different months were used.

Utilizing figures not only in the same month but on one particular day in a single month may change the eligibility determination. November 25, 2008 balances are available for all but the [REDACTED]. The November 25, 2008 balances from [REDACTED] [REDACTED] were \$1,260.76 savings and \$852.90 checking. (Department Exhibit 1, pg. 9) The November 25, 2008 [REDACTED] balances were \$72.36 checking and \$23.32 savings. (Department Exhibit 1, pgs. 13 and 17) These checking and savings accounts show a total of \$2,209.34 in available assets on November 25, 2008. Verification of the balances for the five [REDACTED] accounts in November 2008 are still needed. However, if the [REDACTED] balances were similar on November 25, 2008 to figures from the verifications provided for the time period of December 9, 2008 to January 8, 2009, claimant may have been under the \$3,000 limit in the month of November 2008.

Based upon the foregoing facts and relevant law, it is found that the department did not properly calculate the MA budget to determine asset eligibility. Therefore, the department shall reinstate the December 26, 2008 MA application and re-determine eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not properly calculate the MA budget to determine asset eligibility.

Accordingly, the department's determination is REVERSED. Therefore, it is ORDERED that the department re-instate the December 26, 2008 MA application and re-determine eligibility.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 19, 2009

Date Mailed: November 20, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

CL/cv

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