

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: 2009-20273

Issue No: 2006; 2014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 3, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, November 3, 2009. The claimant personally appeared and testified with his husband, [REDACTED] as a witness.

ISSUE

Did the department properly deny the claimant's MA application based upon its determination that the claimant had excess income?

FINDINGS OF FACT

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

(1) On January 5, 2009, the claimant applied for MA for herself, her husband, and three children, which included retroactive months of October 2008, November 2008, and December 2008.

(2) On February 5, 2009, the department caseworker determined the claimant's eligibility for MA benefits:

- The claimant's husband's assets totaled [REDACTED], which was well over the \$3,000 asset limit.
- The income limit was \$2,714 for a pregnant person and \$2,650 for children where the claimant's husband's employment income was [REDACTED] for January 2009 (Department Exhibit 2A), [REDACTED] for December 2008 (Department Exhibit 3A-3B), [REDACTED] for November 2008 (Department Exhibit 4A-4B), and [REDACTED] for October 2008 (Department Exhibit 5A-5B).

(3) On February 5, 2009, the department caseworker sent the claimant a denial notice that she had excess income for purposes of MA eligibility. (Department Exhibit 6A-6C)

(4) On March 10, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

(5) During the hearing, the claimant testified that she delivered her baby in [REDACTED]

[REDACTED]

(6) On November 5, 2009, the department caseworker sent a clarifying e-mail stating that the claimant did not communicate the birth to DHS or MIChild, but that MIChild did receive a 2565, Hospitalization Application, on March 13, 2009 for the birth of the baby and failed to act on it, but opened MA for the other children. The department determined that it was an administrative error and are reprocessing the claimant's baby back to March and giving her an opportunity to apply for retroactive MA for February 2009. The claimant was properly denied because MIChild requested her ID and she did not provide it. The claimant had been moving around at this time and did not provide her new address. The claimant was sent an application as well as a checklist to her new address that was verified at the hearing that are due back by November 14, 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).

The department manuals provide the following relevant policy statement and instructions for caseworkers:

### **DEPARTMENT POLICY**

#### **All Programs**

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

### **CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES**

#### **Responsibility to Cooperate**

##### **All Programs**

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

##### **Client Cooperation**

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- . Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See PAM 815 and 825 for details. PEM, Item 260, p. 4.

### **All Programs**

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

### **Refusal to Cooperate Penalties**

#### **All Programs**

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

### **Verifications**

#### **All Programs**

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

## **LOCAL OFFICE RESPONSIBILITIES**

### **All Programs**

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

## **ASSETS**

### **DEPARTMENT POLICY**

#### **FIP, SDA, LIF, Group 2 Persons Under Age 21, Group 2 Caretaker Relative, SSI-Related MA, and AMP**

Assets must be considered in determining eligibility for FIP, SDA, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP.

- . “CASH” (which includes savings and checking accounts)

- . “INVESTMENTS”
- . “RETIREMENT PLANS”
- . “TRUSTS” PEM, Item 400.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients can be penalized for divestment (see PEM 405). PEM, Item 400, p. 4.

### **SSI-Related MA Asset Limit**

#### **SSI-Related MA Only**

For Freedom to Work (PEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRA’s and 401(k)’s) may be of unlimited value.

For Medicare Savings Program (PEM 165) and QDWI (PEM 169) the asset limit is:

- . \$4,000 for an asset group of one
- . \$6,000 for an asset group of two

For all other SSI-related MA categories, the asset limit is:

- . \$2,000 for an asset group of one
- . \$3,000 for an asset group of two. PEM, Item 400, p. 4.

### **AVAILABLE**

#### **FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP**

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. PEM, Item 400, p. 6.

Assume an asset is available unless evidence shows it is **not** available. PEM, Item 400, p. 6.

#### **Lump Sums and Accumulated Benefits**

#### **FIP, SDA and AMP Only**

Lump-sums and accumulated benefits are assets starting the month received.

A person might receive a single payment that includes both accumulated benefits and benefits intended as a payment for the current month. Treat the portion intended for the current month as income. PEM, Item 400, p. 9.

### **LIF, G2U, G2C, SSI-Related MA**

Lump sums and accumulated benefits are income in the month received. See PEM 500 about countable income policy.

*Exception:* The following are assets:

- . Income tax refunds
- . Nonrecurring proceeds from the sale of assets
- . Payments that are excluded assets PEM, Item 400, p. 10.

### **RETIREMENT PLANS**

#### **FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP**

This section is about the following types of assets:

- . Individual retirement accounts (IRAs)
- . Keogh plans (also called H.R. 10 plans)
- . 401k plans
- . Deferred compensation
- . Pension plans
- . Annuities--An annuity is a written contract establishing a right to receive specified, periodic payments for life or for a term of years. PEM, Item 400, pp. 14-15.

In the instant case, the claimant had excess income that was verified by the department for the months of October 2008 (██████), November 2008 (██████), December 2008 (██████), and January 2009 (██████). On February 5, 2009, the department caseworker sent the claimant notice that she had excess income to qualify for MA.

The claimant was pregnant and delivered her baby in ██████████. The claimant's three other children were put on MICHild, but the claimant and baby were denied. MICHild did

receive a 2565, Hospitalization Application, on March 13, 2009. The claimant failed to return the checklist and a copy of her ID to MICHild.

The department determined that it was an administrative error and that the claimant's birth in [REDACTED] was not covered. The claimant was sent an application and checklist that is due back on November 14, 2009. Therefore, the department has established it was acting in compliance with department policy by determining that the claimant had excess assets for MA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department appropriately denied the claimant's MA application because of excess income.

Accordingly, the department's decision is **AFFIRMED**.

/s/ \_\_\_\_\_  
Carmen G. Fahie  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 11, 2009

Date Mailed: December 11, 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.

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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 receipt date of the rehearing decision.

CGF/vmc

cc:

