

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: 2009-21693
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 2, 2009
Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 2, 2009. Claimant, a mentally incapacitated nursing home resident, was represented by her Durable Power Of Attorney (DPOA).

ISSUE

Did the department properly deny claimant's September 29, 2008 Medicaid (MA) application?

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 September 29, 2008, a long-term care MA application was filed on claimant's behalf.

(2) The department requested verifications of claimant's assets, which were promptly returned.

(3) Claimant's savings account bank statement verifies her lowest balance that month was [REDACTED] (Department Exhibit #1, pg 6).

(4) Additionally, in September 2008, claimant had [REDACTED] in a patient trust fund at the facility in which she resides (Department Exhibit #1, pg 8).

(5) On November 10, 2008, the department notified claimant's DPOA her application was being denied because claimant's assets were more than [REDACTED] (Department Exhibit #1, pg 13).

(6) On December 30, 2008, claimant's DPOA filed a timely hearing request on the reverse side of the notice.

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 applicable departmental policy states:

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.

Value of Cash

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

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

Exception: Reduce the value of a time deposit by the amount of any early withdrawal penalty, but **not** the amount of any taxes due. PEM, Item 400, p. 10.

Overview of Asset Policy

Countable assets **cannot** exceed the applicable asset limit. Not all assets are counted. Some assets are counted for one program, but **not** for another program. Some programs do **not** count assets (see “PROGRAMS WITH NO ASSET TEST” below).

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

- . Availability
 - .. see “AVAILABLE”
 - .. see “JOINTLY OWNED ASSETS”
 - .. see “NON-SALABLE ASSETS”

Exclusions. PEM, Item 400, p. 1.

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.

An asset is countable if it meets the availability tests and is **not** excluded. PEM, Item 400, p. 1.

SSI Related MA

All types of assets are considered for SSI-related MA categories. PEM, Item 400, p. 2.

At **application**, use the assets from the month of eligibility being determined. If excess assets exist at application, the group must verify that it meets the asset limit for any future month of eligibility. PEM, Item 400, p. 3.

The facts of record in this case are clear and undisputed. At all times relevant claimant had assets in excess of the department's MA program limit. As such, the department had no alternative but to deny coverage because doing so is in complete compliance with the above-referenced policy, and with the governing regulations on which that policy is based.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's September 29, 2008 MA application.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 8, 2009

Date Mailed: September 8, 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.

MBM/db

cc:

