

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 200930657
Issue No. 2021
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: May 18, 2010
Gratiot 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 the claimant's request for a hearing. After due notice, a telephone hearing was held on May 18, 2010. The claimant was not present, but was represented by his attorney [REDACTED], [REDACTED] paralegal, and the claimant's son, [REDACTED] who has durable power of attorney.

ISSUE

Did the department properly determine that the claimant had excess assets for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. The claimant entered a nursing home in February 2008.
2. On May 29, 2009, an application for MA-P was filed on behalf of the claimant with retroactive MA-P to February 2009. (Department Exhibit 13-19)
3. Subsequently, the department caseworker received written verification that the claimant received benefits from
 - [REDACTED] that the claimant had a money market savings account in the amount of [REDACTED] and a preferred 50+ interest checking account in the amount of [REDACTED]. (Department Exhibit 20-23)

- The claimant had Social Security income in the amount of [REDACTED]
 - A pension from [REDACTED] in the amount of [REDACTED] (Department Exhibit 27)
4. On June 8, 2009, the department caseworker calculated the claimant's eligibility for MA benefits. The claimant had liquid assets in the amount of [REDACTED]. The claimant's total countable resource amount of [REDACTED] exceeded the MA asset limit of \$2,000. As a result the claimant failed the resource eligibility test.
 5. On June 8, 2009, the department caseworker sent the claimant a notice that he was denied for MA because the result of his countable assets was higher than the amount allowed for the program where he was not eligible for MA because his assets were more than the \$3,000 limit for a couple. (Department Exhibit 8-11)
 6. On June 29, 2009, the department received a hearing request from the claimant, contesting the department's negative action.
 7. The claimant died in September of 2009.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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

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.

Assets Defined

Assets mean 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). PEM, Item 400.

Assets must be considered to determine eligibility for MA categories. The department has to consider cash, investments, retirement plans, and trusts. BEM, Item 400. Assets mean cash, any personal property, and real property. BEM, Item 400. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability test and is not included. BEM, Item 400. In the instance case, there was no argument as to how much the claimant had in his account.

MA ASSET ELIGIBILITY

LIF, G2U, G2C, AMP and SSI-Related MA Only

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories. PEM, Item 400, p. 3.

Note: Do not deny or terminate TMA-Plus, Healthy Kids or Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining LIF, G2U, G2C or SSI-related MA eligibility.

Use the special asset rules in PEM 402 for certain married L/H and waiver patients. See PRG, Glossary, for the definition of L/H patient and PEM 106 for the definition of waiver patient.

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.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date. 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.

A preponderance of the evidence on the record establishes that the claimant had countable available assets in excess of \$3,000 for a couple on the date of his application. The MA asset limit for a person in the claimant's circumstances is \$3,000 because he was married. Therefore, the Administrative Law Judge concludes that the department correctly denied the claimant's MA application due to excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law that the department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department

policy when it determined the claimant's MA application should be denied based upon the fact that the claimant possessed excess assets.

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

/s/ _____
Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: July 21, 2010

Date Mailed: July 22, 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 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/VC

cc:

