

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.: 2009-31732
Issue No.: 2021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 29, 2010
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 hearing was held on April 29, 2010.

ISSUE

Did the Department of Human Services (Department) properly deny Claimant's Medical Assistance (MA-P) 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 a material fact:

1. On May 9, 2009, Claimant applied for MA-P coverage.
2. On May 20, 2009, the Department denied Claimant's application for MA-P for excess based upon the Department's finding that the lowest bank balance for the month of April was \$,3397.

3. On July 1, 2009, Claimant filed a request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA-P) 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 administers the MA-P 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).

Michigan provides MA for eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant falls under Group 2 MA classification which consists of client's whose eligibility results from the State designating types of individuals as "medically needy." MCL 400.106; MSA 16.490 (16), MCL 400.107; MSA 16.490(17); and PEM, Item 105.

In the present case, Claimant was denied benefits based upon the Department determining that the lowest balance for a bank account for the month of April 2009 was \$3,397. The Department provided a copy of the bank statement used to make this determination. The account fails to indentify clearly the deposits made into the account. Claimant asserts the Department failed to remove the Social Security Administration (SSA) payment received during April from the account balance. The Department asserts that Claimant's SSA payment is not a direct deposit and, therefore, the amount of SSA is not removed from the account balance when considering assets. The Department cites PEM 400, 401 and 402 for the basis of their decision.

RELEVANT POLICY PEM 400, p. 13:

Current Income Exclusion

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

Do not count funds treated as income by a program as an asset for the same month for the same program.

When income must be prorated or averaged (example: self-employment) exclude the resulting assets for the months of proration.

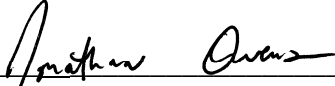
In the instant case, the Department determined a deposit made into the bank account on April 9, 2009, for \$878 was not an SSA payment. The Department is correct in that the bank statement fails to indentify the deposit as an SSA deposit. However, the policy cited by the Department fails to require SSA payments to be direct deposited in order to be considered as income and not as an asset. Claimant's representative stated to the Department that the deposit made on April 9, 2009, was, in fact, an SSA payment. The Department, however, found the SSA amount on the system showed that Claimant was receiving \$928 a month - not \$878.

The Department failed to request additional verification from Claimant to determine if the amount in question was actually an SSA check. Claimant could have easily requested a copy of the check deposited or the transaction showing what was deposited and from what source. The Department needed to allow Claimant an opportunity to provide evidence of the deposit. The bank statement alone was insufficient to demonstrate whether or not the deposit was, in fact, an SSA payment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department incorrectly denied Claimant's MA application for excess assets.

Accordingly, the Department's decision is hereby REVERSED. The Department shall reprocess the Claimant's application dated May 8, 2009, and request additional verifications and, if determined eligible, open MA benefits back to the dates requested.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 19, 2010

Date Mailed: May 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 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.

JWO/pf

cc:

