

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: 2009-3896

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 5, 2009

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 August 5, 2009. Claimant was represented by [REDACTED].

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

(1) June 26, 2008, claimant applied for MA and retroactive MA. Department A, pages 1-5.

(2) August 8, 2008, the department prepared an MA budget and found claimant to be eligible for MA beginning June 1, 2008 with a monthly patient pay amount of [REDACTED]. Department A, pages 6-10.

(3) September 9, 2008, the department prepared a budget for the month of March 2008. Claimant's countable assets were [REDACTED]. Claimant had excess assets to qualify. Department A, page 57-58. September 9, 2008, the department prepared a budget for April 2008. Claimant's countable assets were [REDACTED]. Claimant had excess assets to qualify. Department A, page 49-50. September 9, 2008, the department prepared a budget for the month of May 2008. Claimant's total countable assets were [REDACTED]. Claimant had excess assets to qualify. Department A, pages 41-42.

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).

Department manuals provide the following policy statements and instructions for caseworkers:

Countable assets cannot exceed the applicable asset limit. 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. The asset limit for SSI-related MA, asset group of 1 is \$2000.

Not all assets are counted.

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

- An asset is countable if it meets the availability tests and is not excluded.
- 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.
- Assume an asset is available unless evidence shows it is not available.

Exclude the asset group's homestead.

Program Eligibility Manual (PEM) 400

P.A. 280 of 1939, as amended

Social Security Act, Sections 1902(a)(10); (r)(2)

Deficit Reduction Act of 2005

42 CFR 435.840 - .845

MCL 400.106

Inform people who inquire about:

- The DHS programs available, including domestic violence comprehensive services.
- Their right to apply.
- Provide specific eligibility information on any program in which they are interested.

The local office is not expected to:

- Provide estate planning advice, or
- Provide funeral planning advice, or
- Determine the effect on eligibility of proposed financial arrangements such as a proposed trust.

Program Administrative Manual (PAM) 105

42 CFR 431, 435

MCL 400.60(2)

In this case, the department properly determined claimant had excess assets to qualify for MA for March 2008 through May 2008. Finding of Fact 3. At hearing, claimant's power of attorney testified that department personnel in another county had told the family during March 2008 to not pay claimant's long term care bills. They followed that advice and believe had they not done so, claimant may have qualified for MA during those months. Whether a department employee informed claimant to not pay bills is not an established as fact for this record nor is it an established fact that claimant would have qualified for MA had bills been paid. Even so, department personnel are not attorneys or financial advisors to clients and must process applications according to department policy. Accordingly, the department can not determine eligibility based on what claimant might have done differently. PAM 105, PEM 400. At hearing, claimant's attorney asserted that the claimant did not timely receive notice of the department's actions and this affected financial arrangements and reapplication date. The remedy for failure to timely process an application is to complete required case actions. The department has done so and properly determined claimant had excess assets for the months of March 2008 through May 2008. Finding of Fact 3.

A preponderance of the evidence establishes that the department properly determined claimant's eligibility for Medical Assistance. Accordingly, the department has met its burden of proof and its action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is **HEREBY UPHELD**.

/S/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 8, 2009

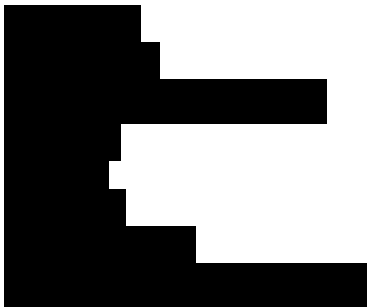
Date Mailed: September 9, 2009

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.

JAB/db

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