

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.: 2009-6792
Issue No.: 2021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 20, 2009
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant request for hearing received by the Department on October 9, 2008. After due notice, a hearing was conducted from Madison Heights, Michigan on August 20, 2009. The Claimant's authorized representative appeared and testified. A Department representative appeared and testified.

ISSUE

Whether the Department properly denied the Claimant's Medical Assistance ("MA") benefits based upon excess assets?

FINDINGS OF FACT

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

1. The Claimant submitted a public assistance application seeking Medical Assistance ("MA") benefits retroactive from August 2007, on November 29, 2007.

2. On July 3, 2008, the Medical Review Team (“MRT”) found the Claimant met the federal criteria for disability thus approving MA-P retroactive from August 2007. (Exhibit 1)
3. On July 25, 2008, the Department determined that the Claimant was not eligible for MA benefits due to excess assets. (Exhibit 2)
4. On July 25, 2008, the Department notified the Claimant that due to excess assets, the application was denied. (Exhibit 6)
5. On October 9, 2008, the Department received the Claimant’s written request for hearing protesting the eligibility determination.

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, formally 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 Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

Assets must be considered in determining MA eligibility. PEM 400 Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. PEM 400 Available means that someone in the asset group has the legal right to use or dispose of the asset. PEM 400 Asset eligibility exists when the assets group’s countable assets are less than, or equal to the applicable asset limit (here \$2,000.00) at least one day during the month being tested. PEM 400 [July 2008] MA eligibility for future months is not authorized if at application processing, the individual has excess assets. *Id.*

In the record presented, the Claimant was found disabled thus initially approved for MA benefits retroactive from August 2007. Based upon the submitted verifications, on at least one day (August 27, 2007-Exh 5, p. 4) the Claimant's checking account balance was \$50.93 thus presumptively eligible, providing other eligibility factors were met. The Department based the determination on the ending checking account balance on September 18, 2007 which was above the applicable asset limit. The eligibility determination was dated July 26, 2008, thus at application processing, there may have been more months of eligibility however the record is not clear. Ultimately, under this scenario, it is found that the Department's determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall re-open the Claimant's November 29, 2007 application retroactive from August 2007, and determine monthly eligibility based upon the application processing date (July 25, 2008) and inform the Claimant and her authorized representative of the determination in accordance with department policy.
3. The Department shall supplement the Claimant for any lost benefits (if any) she was otherwise eligible and qualified to receive in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/27/09

Date Mailed: 08/31/09

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.

CMM/jlg

cc:

