

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: 2009-853  
Issue No: 2021  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 12, 2009  
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 August 12, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's application for Medical Assistance (MA) due to excess assets?

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 February 12, 2007, Claimant was admitted to the hospital.
- (2) On February 14, 2007, Claimant was discharged from the hospital.
- (3) On March 23, 2007, Claimant authorized L&S Associates to represent him in pursuit of Medicaid benefits.

- (4) On May 30, 2007, an applied for Medical Assistance (MA) was submitted requesting retroactive coverage for the months of February and March 2007.
- (5) On September 6, 2007, Claimant's application was denied due to excess assets.
- (6) On November 8, 2007, L&S Associates submitted a request for hearing.

#### 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).

In this case, the Department of Human Services based their excess asset denial on money in Claimant's three bank accounts at [REDACTED]. During the month of February, 2007 the combined, lowest balances of the three accounts was (\$39,994.35+\$2,700.04+\$1,682.20) \$44,376.59. During the month of March, 2007 the combined, lowest balances of the three accounts was (\$40,093.98+\$827.39+\$2,469.81) \$43,440.24. Department of Human Services policy in effect during the months at issue was Program Eligibility Manual Program Eligibility Manual (PEM) 400 which states that the asset limit for Claimant was \$2000.

During the hearing the authorized hearing representative argued that the funds were exempt under the loan exclusion in PEM 400. The policy in effect during the months at issue included SSI-Related MA and required that funds excluded were borrowed on a bona fide loan, which had not been commingled with countable assets, and does not apply to interest earned on borrowed money or purchases made with borrowed money.

During the hearing Claimant testified that in January, 2006 he borrowed \$100,000 against his home in order to pay off delinquent taxes. Claimant testified that he had approximately \$80,000 left after paying off the taxes, fees, and expenses necessary to avoid foreclosure and those funds were deposited into the account ending in 0732. The account ending in 0732 does accrue interest. Claimant went on to testify that he disperses funds from the account ending in 0732 into the other two accounts as needed. The account ending in 1883 is for making payments to the bank on the loan. The account ending in 1883 does not accrue interest. The account ending in 1388 is for all of Claimant's other living expenses. The account ending in 1388 does accrue interest.

The first question, in this case, is whether the loan proceeds are excluded. The residence itself is Claimant's homestead and was an excluded asset. That means all of Claimant's equity in the homestead is excluded. Policy in effect during the months in question excluded reverse mortgages as loans. A reverse mortgage allows someone to access the equity of their home in the form of periodic payments or a line of credit. Claimant's circumstances in this case are that he took a mortgage loan against the value of his home. While the specific loan documents were not presented as evidence, Claimant's testimony indicates the loan is directly against equity he has in the home and is not subordinate to any other mortgage. The practical effect of Claimant's situation is the same as a reverse mortgage. It appears that the actual proceeds of the loan against Claimant's home qualify for the asserted loan exclusion.

However, in this case the interest earned on the accounts ending in 0732 and 1388 are not excluded and therefore are countable. The interest on these accounts is deposited directly into the account, which is commingling of the excluded cash with the countable interest. The Department of Human Services policy in effect during the months in question, specifically states "use this exclusion only if the funds are **not** commingled with countable assets". In accordance

with the Department of Human Services policy in effect during the months in question the three bank accounts are not excluded.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's application for Medical Assistance (MA) due to excess assets.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/S/ \_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: October 13, 2009

Date Mailed: October 21, 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 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.

GFH 

cc:

