

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: 201052867
Issue No: [REDACTED]
Case No: [REDACTED]
Hearing Date:
March 15, 2011
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 March 15, 2011. The claimant appeared and testified.

ISSUE

Was excess assets (over \$3000) established?

FINDINGS OF FACT

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

- (1) MA termination June 17, 2010, was based on excess assets per BEM 400.
- (2) On June 16, 2010, the claimant verified to the DHS that he had \$11,000 in [REDACTED]
- (3) Claimant wanted an exception to the DHS policy based on an ambiguous position of sickness in the family.

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).

The facts above are undisputed:

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.

Based on the undisputed facts above, the claimant was over asset limit. Evidently, he is claiming financial hardship and wants and exception to the DHS policy requirements.

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280.

Therefore, as a matter of DHS policy, this ALJ has no legal authority to grant the claimant an exception to DHS policy based on a financial hardship.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that excess assets (over \$3000) was established.

Accordingly, MA termination UPHELD.

/s/ _____
William Sundquist
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2011

Date Mailed: March 29, 2011

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.

WAS [REDACTED]

cc: [REDACTED]