

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2010-6347
Issue No.: 2026
Case No.:
Load No.:
Hearing Date:
March 24, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on March 24, 2010. The claimant personally appeared and he was represented by his mother and sister both of whom are recognized as the claimant's Authorized Representatives (AR).

ISSUE

Did the Department properly figure his/her Medical Assistance (MA) deductible?

FINDINGS OF FACT

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

1. On November 8, 2008, the department placed the claimant in a MA spend down (deductible). It appears this action was taken following an annual review of the claimant's MA and the finding of assets above the allowed \$2,000.00.

2. On December 8, 2008, the claimant's AR provided the department with documentation of a reduction in the claimant's assets bringing him below the \$2,000.00 limit.
3. On October 3, 2009, the Claimant filed a request for a hearing protesting the changing of the claimant's MA to a deductible.

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 (formerly 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).

In the instant case, the claimant suffers from downs syndrome and is represented by his sister and mother. The claimant questions the department's failure to return the claimant to full MA without a deductible until September 1, 2009.

The record supports the claimant's contention that the department was notified of the change in the claimant assets on December 8, 2008.

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 Programs (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 400, p.5)

This ALJ finds that the department erred when it failed to return the claimant's MA to its previous status. The record shows that the department's representative in charge of the case on December 8, 2008, was not available.

The claimant also requested a decision concerning home care services provided for the claimant by the claimant's mother. This ALJ does not have jurisdiction in this matter but the hearing request has been forwarded to the Department of Community Health for further action.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the department to retroactively return the claimant's MA to its full status beginning December 8, 2008, and replace any lost benefits.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/26/2010

Date Mailed: 4/26/2010

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 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.

2010-6347/MJB

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