

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.: 2010-788
Issue No.: 2021
Case No.:
Load No.:
Hearing Date:
April 26, 2010
Oakland County DHS (2)

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 April 26, 2010. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) due to 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. On January 30, 2009, the department conducted a MA redetermination.
2. On December 31, 2008, the claimant had an IRA account worth \$10,501.00.
3. On February 9, 2009, the Claimant filed a request for a 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 (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).

The Department relies on PEM 400 which says in part:

**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).

In the instant case, the Claimant had an IRA account worth \$10,501.00, on December 31, 2009. The claimant testified that in February of 2009, he loaned his son \$8,000.00 to enable his son to keep his house. The loan is an asset and is an exchange for equal value.

Asset Conversion

Converting an asset from one form to another of equal value is **not** divestment even if the new asset is exempt. Most purchases are conversions. (PEM 405, p.8)

Even though the claimant testified that he doubted his son would be able to repay the loan, as the holder of the loan note it remains an asset of equal value. The claimant's assets therefore exceeded the allowable limit of \$4,000.00.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the Department's decision.



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

Date Signed: 5/26/2010

Date Mailed: 5/26/2010

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.

MJB/jlg

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