

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: 2010-10667

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 11, 2010

Iosco 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 March 11, 2010. Claimant and her husband 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 July 16, 2009, Claimant submitted an application for Medical Assistance (MA). On the application Claimant marked that she was disabled, resides with her husband, and has an IRA account with a balance of [REDACTED].

(2) On October 19, 2009, Claimant was sent a Notice of Case Action (DHS-1605)

stating the application was denied due to excess assets.

- (3) On November 2, 2009, Claimant 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

ASSETS

DEPARTMENT POLICY

FIP, SDA, RAPC, LIF, Group 2 Persons Under Age 21, Group 2

Caretaker Relative, SSI-Related MA, and AMP

Assets must be considered in determining eligibility for FIP, SDA, RAPC, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP.

FIP, SDA, RAPC, LIF, G2U, G2C and AMP consider only the following types of assets:

- [Cash](#) (which includes savings and checking accounts).
- [Investments](#).
- [Retirement Plans](#).
- [Trusts](#).

Assets Defined

Assets means cash, any other personal property and real property.

Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property.

Personal property is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles).

Overview of Asset Policy

FIP asset rules apply to RAPC

Countable assets **cannot** exceed the applicable asset limit. Not all assets are counted. Some assets are counted for one program, but not for another program. Some programs do **not** count assets (see [Programs With No Asset Test](#) below).

You must consider both of the following to determine whether, and how much of, an asset is countable.

- Availability:
 - See [Available](#).
 - See [Jointly Owned Assets](#).
 - See [Non-Salable Assets](#).
- Exclusions.

An asset is countable if it meets the availability tests and is **not** excluded.

Note: The assets considered by FIP, RAPC, SDA, LIF, G2U, G2C, and AMP are limited. See below.

You must consider the assets of each person in the asset group. See the program's asset group policy below.

An asset converted from one form to another (example: an item sold for cash) is still an asset.

Exception: See **SALE OF PROPERTY IN INSTALLMENTS** in [BEM 500](#).

FIP, SDA, LIF, G2U, G2C, and AMP Only

The following types of assets are the only types considered for FIP, SDA, LIF, G2U, G2C, and AMP:

- [Cash](#) (which includes savings and checking accounts).
- [Investments](#).
- [Retirement Plans](#).
- [Trusts](#).

SSI-Related MA

All types of assets are considered for SSI-related MA categories.

ELIGIBILITY LIF, G2U, G2C, AMP and SSI-Related MA Only

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories.

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of.

Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment (see [BEM 405](#)).

SSI-Related MA Only

For Medicare Savings Programs (BEM 165) and QDWI (BEM 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.

AVAILABLE FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

An asset must be available to be countable. **Available** means that someone in the asset group has the legal right to use or dispose of the asset.

Exception: This does **not** apply to trusts. There are special rules about trusts. See [Trusts](#) below for FIP, SDA and AMP. See [BEM 401](#) for MA trust policy.

Assume an asset is available unless evidence shows it is **not** available.

An asset remains available during periods in which a guardian or conservator is being sought. This includes situations such as:

- A person's guardian dies and a new guardian has **not** been appointed yet.
- A court decides a person needs a guardian, but has **not** appointed one yet.
- A person is unconscious and his family asks the court to appoint a guardian.

Availability might also be affected by joint ownership and efforts to sell or the possibility of domestic violence. See [Jointly Owned Assets](#), [Non-Salable Assets](#) and [Victims of Domestic Violence](#) below.

SSI-Related MA and AMP Only

A person's death and probating his estate does **not** make his assets unavailable for purposes of determining his eligibility. Determine asset eligibility for the days of the month the person was alive.

RETIREMENT PLANS

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

This section is about the following types of assets:

- Individual retirement accounts (IRAs).
- Keogh plans (also called H.R. 10 plans).
- 401k plans.
- Deferred compensation.
- Pension plans.
- Annuities-- An annuity is a written contract establishing a right to receive specified, periodic payments for life or for a term of years.

Retirement Plan Value

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

The value of these plans is the amount of money the person can currently withdraw from the plan. Deduct any early withdrawal penalty, but not the amount of any taxes due.

Funds in a plan are **not** available if the person must quit his job to withdraw any money. (BEM 400)

In this case Claimant does not dispute the information on the application. In accordance with the policy cited above, the asset limit for Claimant is \$ [REDACTED] Claimant is not eligible for Medical Assistance (MA) benefits due to having assets in excess of the limit.

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: April 13, 2010

Date Mailed: April 13, 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 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/alc

cc:

