

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: 2010-31206

Issue No: 2021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 19, 2010

Clare County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 telephone hearing was held on May 19, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application based upon the fact that they determined that claimant had excess assets for purposes of receipt of Medical Assistance Benefits?

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 28, 2009, claimant filed an application for Medical Assistance (MA) and QMB.
- (2) On January 5, 2010, the application was denied due to excess assets.

(3) On January 5, 2010, the department caseworker sent claimant notice that her application was denied.

(4) On January 8, 2010, claimant filed a request for a hearing to contest the department's negative action.

(5) In Exhibit 8, claimant's application indicates that her savings account had \$ [REDACTED] on the date of application, which was July 28, 2009.

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).

ASSETS

DEPARTMENT POLICY

FIP, SDA, LIF, Group 2 Persons Under Age 21, Group 2 Caretaker Relative, SSI-Related MA, and AMP 2

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

- . "CASH" (which includes savings and checking accounts)
- . "INVESTMENTS"
- . "RETIREMENT PLANS"
- . "TRUSTS" PEM, Item 400.

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). PEM, Item 400.

Overview of Asset Policy

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 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. PEM, Item 400, p. 1.

An asset is countable if it meets the availability tests and is **not** excluded. PEM, Item 400, p. 1.

You must consider the assets of each person in the asset group. See the program’s asset group policy below. PEM, Item 400, p. 1.

An asset converted from one form to another (example: an item sold for cash) is still an asset. PEM, Item 400, p. 1.

SSI Related MA

All types of assets are considered for SSI-related MA categories. PEM, Item 400, p. 2.

MA ASSET ELIGIBILITY

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

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories. PEM, Item 400, p. 3.

Note: Do not deny or terminate TMA-Plus, Healthy Kids or Group 2 Pregnant Women because of a refusal to provide asset

information or asset verification requested for purposes of determining LIF, G2U, G2C or SSI-related MA eligibility.

Use the special asset rules in PEM 402 for certain married L/H and waiver patients. See PRG, Glossary, for the definition of L/H patient and PEM 106 for the definition of waiver patient.

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. PEM 400.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date. PEM, Item 400, p. 4.

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 can be penalized for divestment (see PEM 405). PEM, Item 400, p. 4.

LIF Asset Limit

LIF Only

\$3,000. PEM, Item 400, p. 4.

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.

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. PEM, Item 400, p. 6.

Assume an asset is available unless evidence shows it is **not** available. PEM, Item 400, p. 6.

In the instant case, on the face of the application, claimant has in excess of \$ [REDACTED] in countable available assets because she indicates that she has \$ [REDACTED] in her savings account at Central Michigan Community Federal Credit Union as well as \$ [REDACTED] in the Central Michigan Community Federal Credit Union checking account. She also had \$ [REDACTED] in the ING direct savings account and \$ [REDACTED] in the Chemical Bank Checking account. On the face of the application, claimant had in excess of \$ [REDACTED] in countable available assets. This Administrative Law Judge did look at all of the exhibits in the file and bank statements and for the month of May 2009, claimant had a beginning balance of \$ [REDACTED] and an ending balance of \$ [REDACTED] (exhibit 19, 20). In June 2009, claimant had a beginning balance of \$ [REDACTED] and an ending balance of \$ [REDACTED]. For the bank statement of July 28, 2009, claimant had \$ [REDACTED] in her Central Michigan Community Federal Credit Union prime access account. Her beginning balance was \$ [REDACTED] for the month of July 2009, and month of application. Therefore, the department has established by the necessary competent, material and substantial evidence in the record that it was acting in compliance with department policy when it determined that claimant had in excess of \$ [REDACTED] in countable available on the date of application. Therefore, the department's decision is must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant had in excess of \$ [REDACTED] in countable available assets for purposes of Medical Assistance eligibility on the date of application. The department properly denied claimant's application for Medical Assistance under the circumstances and determined that she had in excess of \$ [REDACTED] of countable available assets.

Accordingly, the department's decision is AFFIRMED.

/s/
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 17, 2010

Date Mailed: June 18, 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.

LYL/alc

cc:

[REDACTED]