

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Claimant

By: [REDACTED],
Power of Attorney

Reg. No: 2010-45164

Issue No: 2012

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 31, 2010

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 August 31, 2010, in Ypsilanti. Claimant did not appear because she resides in a long-term care facility. She was represented by her daughter, [REDACTED].

The department was represented by Yvette Bishop-Turnbull (FIM) and Susan McHenry (ES).

ISSUE

Did the department correctly compute claimant's eligibility for MA-M for April and May 2009?

FINDINGS OF FACT

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

(1) Claimant is represented by her daughter, [REDACTED], under the terms of a Durable Power of Attorney dated December 26, 2008.

(2) On June 4, 2009, claimant's POA applied for MA-M for claimant. Current MA-M benefits were approved, retro MA-M for April and May 2009 was denied.

(3) On the date of application, the MA-M/LTC asset limit was \$2,000.

(4) On the date of application, claimant's community spouse ([REDACTED]) asset limit was \$25,628. The combined asset limit for [REDACTED] was \$27,628.

(5) In April 2009, claimant and [REDACTED] had the following assets:

[REDACTED] Checking Account (1)	\$19,410
[REDACTED] Checking Account (2)	\$45
[REDACTED] (cash value)	\$3,336 (a)
[REDACTED] Mutual Fund	\$8,017 (b)
[REDACTED] Insurance Policy	\$5,106 (c)
[REDACTED] Insurance Policy	<u>\$5,177 (d)</u>
Total Assets--April 2009	\$41,692

(6) In May 2009, claimant and [REDACTED] had the following joint assets:

[REDACTED] Checking Account (1)	\$13,423
[REDACTED] Checking Account (2)	\$45
[REDACTED] Insurance Contract (cash value)	\$3,336 (a)
[REDACTED] Mutual Fund	\$8,017 (b)
[REDACTED] Life Insurance Policy	\$5,106 (c)
[REDACTED] Insurance Policy	<u>\$5,177 (d)</u>
Total Assets--May 2009	\$35,706

(7) On December 29, 2009, the caseworker sent a negative action notice (DHS-417 and DHS-4588) to claimant's POA stating that claimant was not eligible for MA-M for the months of May and April 2009, due to excess assets.

(8) On March 19, 2010, claimant's POA requested 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 (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 Medicaid program provides medical insurance for low income persons. The asset policy is found in PEM/BEM 400. To determine MA eligibility, the caseworker must calculate the total value of claimant's countable assets, including the value of checking accounts, annuities, trust accounts, etc. Claimant and [REDACTED] had total countable assets of \$41,692 in April 2009 and \$35,706 in assets in May 2009.

The combined asset limit (LTC spouse and community spouse) was \$27,628. Claimant's \$2,000 asset limit plus [REDACTED] \$25,628 asset limit.

Since claimant and [REDACTED] combined assets in April 2009 were \$41,692, claimant was not eligible for MA-M because the combined assets exceeded the asset limit of \$27,628.

The combined community spouse plus LTC assets in May 2009 were \$35,706, which also exceeded the combined asset limit of \$27,628.

The preponderance of the evidence in the record shows that claimant's combined assets in April 2009 (\$41,692) and claimant's combined assets in May 2009 (\$35,706) exceeded the asset limit (\$27,628 for both months).

There is no evidence of arbitrary or capricious action by the department in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department correctly denied claimant MA-M benefits for April 2009 and May 2009 due to excess assets (over \$27,628 for each month).

Therefore, the department correctly denied claimant's request for retro MA-M for April and May 2009.

Therefore, the department is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 20, 2010

Date Mailed: September 21, 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.

2010-45164/JWS

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.

JWS/tg

cc:

