

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201049490
Issue No.: 2023
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 10, 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 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 10, 2010. The claimant 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 upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. On June 3, 2010, the department sent a verification checklist to the claimant as part of a MA redetermination. (Department exhibit 1).
2. On June 18, 2010, the department moved to close the claimant's MA for excess assets.
3. On July 28, 2010, the Claimant filed a request for a hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 a cash values on an IRA totaling \$7,117.00. The claimant's assets exceeded the asset limit of \$2,000.00.

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.

Freedom to Work (FTW) only

Exclude the total value of funds in retirement accounts and individual retirement accounts. (BEM 400, pp. 15-16)

However, if the claimant can prove that the funds from her IRA are not available, then the asset would not be counted and the claimant would be eligible for MA.

DECISION AND ORDER

The Administrative Law Judge, based upon 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: 12/6/2010

Date Mailed: 12/6/2010

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.

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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.

MJB/jlg

cc:

