

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201151202
Issue No: 2021
Case No: [REDACTED]
Hearing Date:
October 20, 2011
Lapeer 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 October 20, 2011. Claimant personally appeared and testified. Claimant was represented by [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and retroactive Medical Assistance (retro MA) based upon its' determination that claimant possessed in excess of \$2000 (\$3000 for a couple) in countable available 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 March 14, 2011, claimant's representative filed an application for Medical Assistance and Retroactive Medical Assistance benefits.
- (2) Verification information was provided to the department and the department determined that claimant had in excess of \$ [REDACTED] (\$ [REDACTED] for a couple) in countable available assets.
- (3) On May 17, 2011, the department case worker sent claimant notice that her application and retroactive Medical Assistance application were denied for possession of excess assets.
- (4) On August 12, 2011, claimant's representative filed a request for a hearing to contest the department's negative action.

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).

ASSETS

DEPARTMENT POLICY

FIP, SDA, 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, 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” BEM, 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). BEM, 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. BEM, Item 400, p. 1.

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

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

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

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." BEM, Item 400.

SSI Related MA

All types of assets are considered for SSI-related MA categories. BEM, 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. BEM, 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 BEM 402 for certain married L/H and waiver patients. See PRG, Glossary, for the definition of L/H patient and BEM 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. BEM 400.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date. BEM, 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 BEM 405). BEM, Item 400, p. 4.

LIF Asset Limit

LIF Only

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

SSI-Related MA Asset Limit

SSI-Related MA Only

For Freedom to Work (BEM 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 (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. BEM, 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. BEM, Item 400, p. 6.

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

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

The value of the types of assets described above is the amount of the:

- Money/currency.
- Uncashed check, draft or warrant.
- Money in the account or on deposit.
- Money held by others.

Reduce the value of a time deposit by the amount of any early withdrawal penalty, but **not** the amount of any taxes due. BEM, Item 400, pages 12-13.

In the instant case, claimant provided information that her checking account had a balance of \$ [REDACTED] as of [REDACTED] [REDACTED] (Client Exhibit A18) She received and deposited \$ [REDACTED] in the month of [REDACTED] [REDACTED] which claimant alleges is all paycheck stubs from her husband. Claimant is correct in her argument that \$ [REDACTED] was income in the month in which it was deposited, if it was paychecks from her husband. \$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED]. There were 30 withdrawals totaling \$ [REDACTED]. The balance in the account on [REDACTED] [REDACTED] was \$ [REDACTED]. The original \$ [REDACTED] was not income for the month of [REDACTED] [REDACTED] and must necessarily be considered an asset for [REDACTED] [REDACTED]. \$ [REDACTED] is in excess of the \$ [REDACTED] (or \$ [REDACTED] for a couple) asset limit. Therefore, claimant failed the asset test. The department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant had in excess of \$ [REDACTED] (\$ [REDACTED] for a couple) of countable available assets on the date of application and for the month of [REDACTED] [REDACTED]. Therefore, the department's decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant had in excess of \$ [REDACTED] in countable available assets for purposes of Medical Assistance and retroactive Medical Assistance benefit 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.

Landis

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

Date Signed: 10/20/11

Date Mailed: 10/26/11

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]