

1. The Claimant applied for Medical assistance on October 28, 2008, and a retroactive medical application was also filed at that time. Exhibit 1.
2. At a prior hearing, Administrative Law Judge Mamelka issued a decision on May 28, 2010, which ordered the Department to reopen and reprocess the Claimant's October 28, 2008 application. See attached. (Decision of ALJ Colleen Mamelka, Case #2010 4856)
3. The Department reprocessed the application and denied the application on June 3, 2010, due to its determination that the Claimant had excess assets. Exhibit 2.
4. On June 3, 2010, the Department reviewed the October 2008 and July 2008 asset information provided to the Department, pursuant to Medical Verification of Assets Checklist, and found the Claimant's assets were over the \$2,000 asset limit. Exhibit 4
5. The verification of assets information provided to the Department indicated that for July 2008, the Claimant's minimum balance in the ARC credit union account was \$2,258.35, and for October 2008, it was \$2427.86. Exhibit 5
6. At the time of the application, the Claimant had a joint account with his father through the ARC Credit Union. The Claimant's father's name was on the account so that his father could access the money to use it for the Claimant in case an emergency happened to the Claimant. Exhibit 5
7. The Claimant testified that not all the money in the account was the Claimant's money. As of January 1, 2008, the Claimant had rent of \$520

per month and his father was paying his rent out of his father's funds, as the Claimant had lost his job.

8. The Claimant's father paid the Claimant's rent from January 1, 2008 through June 2009. The Claimant testified that as the money in the account grew, it was his father's because he was paying the Claimant's rent.
9. The claimant testified that all the money in the account was his father's except for \$500 because he owed his father money for paying his rent.
10. At the hearing, the Claimant provided an undated letter signed by his father stating that "In July 08 his son wasn't working and the money he had in the credit union wasn't all his. He owed most of it to me for his rent that I was paying at the time. I left the money in his account until I decided to take it out." Claimant Exhibit 1.
11. The Claimant's father put no money in the account. The Claimant's father did not remove any money from the account until just recently.
12. The Claimant did not provide the Department any explanation or clarification regarding the ownership of funds, or shares of ownership in the joint account with his father at his application, nor were any comments provided regarding his father's ownership of the funds or the specific share of ownership on the asset verification form which was submitted.
13. The Claimant received \$1600 from social security in June 2009 and his father was reimbursed for rent out of that money.

14. The Claimant's authorized representative filed a timely hearing request which was received by the Department on September 20, 2010, protesting the denial of Medical Assistance by the Department due to excess assets.

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, formally 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 Bridges Reference Manual ("PRM").

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.*

Assets must be considered in determining MA eligibility. BEM 400, p. 1. Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. BEM 400, pp. 1, 6. Available means that someone in the asset group has the legal right to use or dispose of the

asset. BEM 400, p. 6. The SSI related asset limit is \$2,000 for a group of one and \$3,000 for a group of two. In this case the asset limit was \$2,000. BEM 400, p.5. Lump sums and accumulated benefits are income in the month received. BEM 400, p. 10. It is to be assumed an asset is available unless evidence shows it is not available.

The Department policy also addresses jointly owned assets which are assets owned by more than one owner. BEM 400 provides that an asset is unavailable if an owner **cannot** sell or spend his share of an asset:

- Without another owner's consent, and
- The other owner is not in the asset group, and
- The other owner refuses consent.

Department policy also specifically provides with regard to jointly owned cash assets that it is to count the entire amount unless the person claims and verifies a different ownership. Then each owner's share is the amount he owns. BEM 400, p.8.

In the present case, Claimant provided information to the Department by way of a Verification of Assets received June 1, 2008. No other evidence was provided to the Department at that time that advised the Department that the credit union account assets shown to be in the joint account were not available to the Claimant without his father's consent or that his father had a certain share of the money in the account. In addition, the October 28, 2010 application indicates that the Claimant had \$2,200 in assets at the time of the application without further explanation provided. Thus at the time, the Department made its decision to deny the application it did so properly based upon the information provided to it and in accordance with the Department policy provided in BEM 400.

At the hearing, the Claimant provided a note signed by his father attempting to establish that the funds in the account were not all the Claimant's as he owed his father money for rent advances made during the period January 1, 2008 through June 2009. Had the note been made available to the Department at the time of application it still would not have allowed the Department to find that the Claimant was asset eligible. The Department would have required further verification to determine ownership share because the note did not establish a legal impediment which would have prevented the Claimant from removing or using the money in the account, nor did it indicate with any specificity what share the father owned. In fact, the Claimant advised that the father was to use the money in the account for the Claimant's benefit in case of an emergency. The father deposited none of his own money in the account. Further the Claimant's father did not remove funds from the account until recently. There appears to be no doubt that if the Claimant needed to, he could have legally withdrawn all the account funds with no impediment, legal or otherwise, even though had he withdrawn the funds he might have still owed his father rent which had been advanced to the Claimant.

The verification of assets indicated the lowest checking account balance for July 2008 was \$2457.35 and for October 2008, \$2427.86. The Verification of Assets provided by the Claimant, pursuant to the verification checklist, clearly established that the Claimant's assets exceeded the asset limit to qualify for Medicaid on the basis of the cash in his credit union account.

Based on the information available to it at the time of the Department's determination of eligibility and processing of the Claimant's application for medical

assistance it must be found that the Department properly denied the application due to excess assets. The information available to it at the time clearly required the Department to deny the application as the verification of assets indicated the Claimant's assets were more than the asset limit of \$2,000. BEM 400. Accordingly, the Department's decision is affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department did act in accordance with Department policy when it denied Claimant MA benefits for excess assets. Therefore, its determination of eligibility and denial of the Claimant's October 28, 2008 application is AFFIRMED.

Administrative
for
Department



Lynn M. Ferris
Law Judge
Maura Corrigan, Director
of Human Services

Date Signed: 03/28/11

Date Mailed: 03/30/11

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.

LMF

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