

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-22927
Issue No.: 2021; 3021
Case No.: [REDACTED]
Hearing Date:
April 11, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on April 11, 2011. The claimant appeared and testified.

ISSUE

Did the Department properly deny the Claimant's Medical Assistance (MA) due to excess assets?

FINDINGS OF FACT

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

1. On [REDACTED] the claimant applied for MA.
2. On [REDACTED] the department denied the claimant's application due to excess assets.
3. On [REDACTED] the claimant filed a request for 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 (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Department relies on BEM 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. (BEM 400, p.5).

In addition:

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. (BEM 400, p. 16).

In the instant case, the department presented documentation of assets totaling \$20,100.00, at the time of application. This figure was correct according to the claimant. The claimant also agreed that the funds could be withdrawn without quitting her job.

This ALJ finds that the department correctly denied the claimant's application for MA.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the Department's decision.



Michael J. Bennane
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 2, 2011

Date Mailed: June 2, 2011

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 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.

MJB/hw

cc:

