

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

IN THE MATTER OF:



Reg. No: 20112916
Issue No: 2021
Case No: [REDACTED]
Hearing Date:
February 24, 2011
Manistee County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 February 24, 2011. The claimant appeared and testified.

ISSUE

Was asset eligibility established?

FINDINGS OF FACT

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

- (1) Notice of case action: MA application on March 25, 2010 denied May 18, 2010 based on excess assets per BEM 400. Denied per BEM 400 (over \$2000 limit).
- (2) On April 27, 2010, the claimant sold his boat for \$2000; this plus other assets placed him over the property limit the \$2000.
- (3) The boat market value had not been appraised by an expert.

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 facts above are undisputed:

NON-SALABLE ASSETS

SSI-Related MA Non-Salable Assets

SSI-Related MA Only

Do **not** count an asset when it has no current market value as shown by the following:

- . Two knowledgeable sources (example: realtor, banker, stockbroker) in the owner's geographic area state that the asset is **not** salable due to a specific condition. This applies to any assets listed under:
 - .. "INVESTMENTS"
 - .. "HOMES AND REAL PROPERTY"
 - .. "VEHICLES"
 - .. "Burial Space Defined"
 - .. "EMPLOYMENT AND TRAINING ASSETS" PEM, Item 400, p. 8.

The claimant introduced no evidence by an expert as to the market value of his boat that was up for sale. He testified that he thought in his non-expert opinion the boat was worth \$4000. Then, when it did not sell at that price he accepted \$2000 for it.

Based on the above undisputed facts and DHS policy the claimant did not establish by the preponderance of the evidence that his boat was non-sailable at a certain market value.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that asset eligibility was not established.

Accordingly, MA denial is UPHELD.

/s/ _____
William Sundquist
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 23, 2011

Date Mailed: March 23, 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.

20112916/WAS

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.

WAS /om

cc:

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