

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201255472
Issue No: 2021
Case No: [REDACTED]
Hearing Date: July 18, 2012
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 July 18, 2012. The claimant's authorized representative and attorney, [REDACTED], appeared on behalf of the claimant. Assistant Attorney General [REDACTED] appeared on behalf of the department.

ISSUES

Whether the department properly denied the claimant's Medical Assistance (MA) application due to excess 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. The claimant applied for MA benefits on March 5, 2012.
2. The claimant was originally approved for MA benefits with a deductible.
3. The claimant filed a request for hearing on May 14, 2012.
4. Upon reviewing the file subsequent to the hearing request being filed, the department determined that the claimant's assets exceed the allowable limit and in turn denied the claimant's request for MA benefits based on excess assets.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

Clients have the right to contest a department decision affective eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. 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. Medicaid is also known as Medical Assistance (MA).

In order to be eligible for MA benefits, an individual must meet the prescribed asset limits. BEM 400. For SSI related MA, the asset limit for a group size of one is \$2,000.00. Department policy defines assets as follows:

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 400.

Additionally, policy states that in order for an asset to be countable, it must be available and not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400.

The asset at issue in this case is a house located in Athens, Georgia owned by the claimant. At the hearing, there was no dispute over the ownership of the house, nor was there any dispute over the value thereof. The house is owned by the claimant, and the verification provided by the claimant shows that the house has a value of [REDACTED] (see Department Exhibit 4) with a mortgage balance currently outstanding in the amount of [REDACTED] (see Department Exhibit 5). This results in an equity value of [REDACTED]. The equity value is what is to be used in determining the value of the house or real property for the purposes of determining MA eligibility. BEM 400. As the equity value of the claimant's house exceeded the asset limit of [REDACTED], the department determined that the claimant's countable assets exceeded the allowable limit.

At the hearing, the claimant's attorney asserted that the claimant's house should be excluded from her countable assets as the house is a business asset. Policy does allow for certain business assets to be excluded from countable assets. Policy states in pertinent part as follows:

**Real Property and Employment Assets
SSI-Related MA and FAP**

Employment-related assets such as farmland and the building where a business is located might be excluded; see [Employment Asset Exclusions](#) in this item. BEM 400.

EMPLOYMENT AND TRAINING ASSETS SSI-Related MA and FAP

Employment assets are those assets commonly used in a business, a trade or other employment. Examples:

- Farmland.
 - Tools, equipment and machinery.
 - Inventory, livestock.
 - Savings or checking account used solely for a business.
 - The building a business is located in.
 - Vehicles used in business such as a farm tractor or delivery truck.
- It does **not** include vehicles used solely for transportation to and from work.

Such assets might also be used in education or job training. BEM 400.

**EMPLOYMENT ASSET EXCLUSIONS
General Employment Exclusion SSI-Related MA and FAP**

Exclude employment assets (see above) that:

- Are required by a person's employer.
- Produce income directly through their use.

Such assets remain excluded when a person is unemployed only if the person intends to return to that type of work. BEM 400.

The claimant's attorney stated that the claimant is an artist and she produces income solely through the sale of her art work. The claimant's attorney further stated that the claimant uses the house in Georgia to store her artwork. The argument is therefore that because the claimant uses her house to store her artwork, her house is a business asset and should be excluded in accordance with the above-cited policy.

Based on the testimony offered at the hearing and based on the evidence admitted into the record, the Administrative Law Judge finds that the claimant's house does meet the definition of an employment asset as defined in policy. However, the Administrative Law Judge does not find that the house meets the definition of an employment asset

that should be excluded as defined by policy. Policy states that for an employment asset to be excluded, the asset must a) be required by a person's employer and b) produce income directly through their use. As the claimant is self employed, she does not have a per se employer that can require the use of her house. However, as the claimant is self employed, the Administrative Law Judge will find that the first portion of the requirement for exclusion, "required by a person's employer", is not applicable to the claimant and the claimant will therefore meet this portion of the requirement.

The Administrative Law Judge does not find that the claimant's house produces income directly through its use. As the claimant used to live in the house in question, it was not used solely for the purpose of storing the claimant's art work. Although that may be the only function of the house at this time, it originally served as a dwelling and a storage facility. Therefore, it can be deduced that the house was not purchased with the intent that it only be used for business and storage purposes. Additionally, the house is not the only possible storage facility for the claimant's art work. If the claimant so desired, a number of different facilities could accomplish the same purpose as the house in question. Furthermore, it is not the use of the house itself that produces income; rather it is the claimant's act of creating the art and the sale thereof. The claimant's income could be produced regardless of the existence of the house in question. Therefore, the use of the claimant's house does not directly or indeed even indirectly produce income and, as such, the house should not be excluded as an employment asset for the purposes of determining MA eligibility. Accordingly, the Administrative Law Judge determines that the department acted properly in accordance with policy in denying the claimant's MA application due to excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in denying the claimant's MA application based on excess assets.

Accordingly the department's actions are **AFFIRMED**. It is SO ORDERED.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 16, 2012

Date Mailed: August 17, 2012

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 60 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.

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