

**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
BUREAU OF STATE HEARINGS**

In the matter of:

<u>Case Number:</u>	<u>County:</u>	
5069181625	TRUMBULL	
<u>Appeal:</u>	<u>Program:</u>	<u>Disposition:</u>
1316535	MED	SUSTAINED
Compliance Required		
Decision Date:	02/14/2007	
Request Date:	11/07/2006	
Hearing Officer:	JODI PARSONS	

State Hearing Decision

ISSUE SECTION

The Medicaid resource limit for an individual is \$1,500. On August 11, 2006 the Trumbull County Department of Job and Family Services (Agency) denied Medicaid because Appellant's resources exceeded the resource limit.

The Appellant requested a state hearing because he disagrees with the Agency's denial. The Appellant believes a mistake was made on his case.

Based on the evidence and law presented within, the hearing officer concludes that the Agency determined the total of Appellant's resources to be \$1,638. Included in the total was the value of one of Appellant's vehicles, which was not exempt, and which was valued at \$550 based on the NADA Guide for Older Used Cars. The Appellant was not advised that he could provide a statement regarding the value from an automobile dealer if he disputed the value as determined by the Agency. The vehicle required major repairs and the Appellant gave the vehicle to a mechanic in November because it was not worth the cost of repairs which would have exceeded the value of the vehicle. Because the Appellant was not afforded an opportunity to rebut the value of the vehicle, and the vehicle is no longer in Appellant's possession, the Agency's inclusion of the vehicle's value in the resource total and Agency's denial of Medicaid is not affirmed. It is recommended that the appeal be sustained with compliance.

PROCEDURAL MATTERS

On August 11, 2006 notice of denial was mailed. A state hearing request was received on November 7, 2006. The hearing was scheduled for November 28, 2006 via state hearing scheduling notice mailed November 15, 2006; it was rescheduled for December 22, 2006 via state hearing scheduling notice mailed December 13, 2006; it was rescheduled again for January 18, 2007 via state hearing scheduling notice mailed January 3, 2007; it was rescheduled and heard on February 8, 2007 via state hearing scheduling notice mailed January 24, 2007. The appeal summary was received on November 24, 2006. Joe Roscoe, Agency Representative, and

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Jean Maurice, Supervisor, represented the Agency. The Appellant attended the hearing and represented himself.

FINDINGS OF FACT

1. An application for Medicaid was received on July 11, 2006. (Exhibit AA)
2. The household consists of Appellant, age 63, who resides alone and who receives Social Security disability (SSD) income in the amount of \$1,314 monthly, which began February 2006. The Appellant receives his SSD the third Wednesday of each month. (Exhibit K)
3. The Appellant reported two vehicles at his interview which included a 1991 Chevrolet Cavalier and a 1998 Jeep Wrangler.
4. The 1998 Jeep was exempted from the resource determination as it had a higher value. The 1991 Cavalier was determined to be valued at \$550 based on the NADA Older Used Car Guide (May through August 2006). (Exhibit S)
5. The Appellant also had a checking account balance of \$341 and a savings account balance of \$747 as of July 11, 2006. (Exhibit O)
6. The Agency determined that the Appellant's total resources of \$1,638 (checking, savings and value of second vehicle) exceeded the \$1,500 Medicaid resource limit for an individual and denied the application on August 11, 2006.

CONCLUSIONS OF POLICY

Policy

Ohio Admin. Code 5101:1-39-05 (2006) provides that "resource limit" means the maximum combined value of all resources an individual can have an ownership interest in and still qualify for Medicaid. For an individual, the resource limit is one thousand five hundred dollars.

Ohio Admin. Code 5101:1-39-29 (2002) states that one automobile is excluded regardless of value if, for the individual or a member of the individual's household, it is: necessary for employment; necessary for the treatment of specific or regular medical problems; modified for operation by, or the transportation of, a handicapped person; or necessary, because of climate, terrain, distance or similar factors, for the performance of essential daily activities.

Any automobile an individual owns in addition to the one wholly or partly excluded and which cannot be excluded under another rule (e.g., property essential for self-support) is a resource in the amount of its equity value.

If one of two cars can be excluded as necessary for one of the reasons listed above, and the other will be a countable resource, the exclusion applies to the car with the greater equity value regardless of which car is actually used.

The current market value of an automobile is determined by the average trade-in value shown for the vehicle in the most recently published of either the "NADA Official Used Car Guide" or the "NADA Older Car Guide". The description of the car must be complete enough to enable the eligibility workers to find it in the appropriate NADA guide. The description should include the

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year, make, model, number of doors, equipment, etc. Absent evidence to the contrary, assume the vehicle to be in average condition.

If the individual disagrees with the value of the vehicle he can rebut the value by obtaining a written appraisal of the vehicle's current market value from a disinterested knowledgeable source, such as a used car or truck dealer or an automobile insurance company. The CDJFS is not bound by this appraisal but the appraisal should be considered in the evaluation of the vehicle.

Ohio Admin. Code 5101:1-39-27.2 (2002) states that a checking account or savings account is virtually like having cash on hand because deposits are payable on demand. An individual should be able to withdraw money from a checking account or savings account on the same day the individual requests it.

A checking account is verified by examining the last monthly bank statement and the checkbook record to arrive at the current bank balance. A photocopy of the monthly bank statement and check register should be made for the file . . . For passbook savings, the current balance of the savings account is verified by examining the passbook. The CDJFS shall photocopy the page(s) that show activity in the last sixty days.

Analysis

The record developed at hearing establishes that the Agency determined Appellant's total resources exceeded the \$1,500 limit and denied Medicaid for this reason. In this determination the Agency included the Appellant's savings and checking account balances on July 11, 2006 which was before he received his July SSD check which should have been received about July 19, 2006 (third Wednesday in July). The Agency determined the balances based on a print-out from the credit union dated July 11, 2006. The Agency determined the vehicle that was not exempt to be valued at \$550 based on the NADA guide for older vehicles. The Appellant disputes this value as the car had 160,000 miles on it and the frame was rusted. It would have cost over \$300 without labor to fix the vehicle and the vehicle was not worth fixing according to the mechanic. He gave it to the mechanic to scrap. He received no money for it and did not get anything in writing because he was never told he could provide a letter to the Agency if he disputed the value. The car is no longer in his possession. Because the Appellant was not afforded an opportunity to rebut the value of the vehicle and the vehicle is no longer in his possession, the Agency's denial of Medicaid because total resources exceeded the resource limit cannot be affirmed.

HEARING OFFICER'S RECOMMENDATION

Based on the record developed at the hearing, the hearing officer recommends that the appeal be sustained and the Agency be directed to determine if all other eligibility factors were met utilizing the July 11, 2006 application, and if eligibility exists, authorize Medicaid for the months in which eligibility existed (with consideration given to the months in which Appellant met a spend down liability). The Agency shall notify Appellant in writing of their determination and shall attach a copy of the notice to the state hearing compliance form.

FINAL ADMINISTRATIVE DECISION AND ORDER

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Finding the hearing officer's decision to be supported by the evidence, the recommendations above are adopted and the appeal is sustained. Agency is required to comply with the Hearing Officer's recommendations. Ohio Admin. Code § 5101:6-7-03(B)(1)(a) requires compliance with this decision within 15 calendar days from the date of this decision, but no later than 90 calendar days from the request date. Compliance shall be promptly reported to ODJFS, Bureau of State Hearings, via JFS 04068, compliance form, with supporting documentation. (2003)

Hearing Authority

February 14, 2007

Notice to Appellant

This is the official report of your hearing and is to inform you of the decision and order in your case. All papers and materials introduced at the hearing or otherwise filed in the proceeding make up the hearing record. The hearing record will be maintained by the Ohio Department of Job and Family Services. If you would like a copy of the official record, please telephone the hearing supervisor at the CANTON District hearing section at 1-866-635-3748.

If you believe this state hearing decision is wrong, you may request an administrative appeal by writing to: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. BOX 182825, Columbus, OH 43218-2825 or fax: (614) 728-9574. Your request should include a copy of this hearing decision and an explanation of why you think it is wrong. Your written request must be received by the Bureau of State Hearings within 15 calendar days from the date this decision is issued. (*If the 15th day falls on a weekend or holiday, this deadline is extended to the next work day.*) During the 15-day administrative appeal period you may request a free copy of the tape recording of the hearing by contacting the district hearings section.

If you want information on free legal services but don't know the number of your local legal aid office, you can call the Ohio State Legal Services Association, toll free, at 1-800-589-5888, for the local number.

Aviso a la Apelante

Esta es la decisión estatal administrativa de su caso. Todos los documentos y materiales presentados como prueba en la vista o de otra manera radicados componen el récord administrativo. El récord administrativo será mantenido por el Ohio Department of Job and Family Services.

Si usted cree que esta decisión estatal administrativa es errónea, usted puede solicitar una apelación administrativa escribiendo al: Ohio Department of Job and Family Services, Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825 o facsímil (614) 728-9574. Su solicitud debe indicar por qué usted piensa que la decisión administrativa es errónea. Usted puede completar la solicitud de apelación incluida con esta decisión. Su solicitud escrita o formulario de apelación tiene que ser recibido por el Bureau of State Hearings dentro de los 15 días calendario desde la fecha en que esta decisión es expedida. (Si el 15to. día recae sobre un fin de semana o un día feriado, esta fecha límite es extendida al próximo día laborable). Durante el período de 15 días de apelación administrativa, usted o su representante pueden solicitar una copia gratuita del récord administrativo y de la grabación de la vista llamando al Bureau of State Hearings al 1-866-635-3748 (seleccione la opción 1 del menú principal).

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Si usted quiere información sobre servicios legales gratuitos pero no sabe el número de su oficina local de servicios legales, usted puede llamar al Ohio State Legal Services Association, gratuitamente, al 1-800-589-5888, para el número local.

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Appendix

Agency's exhibits:

- A. Appeal summary, 11/24/06, one page
- B. State hearing request, one page
- C. Notice history, one page
- D. Notice history detail, 8/11/06, three pages
- E. Case profile, one page
- F. Individual demographics, one page
- G. Running record comments, 7/11/06 – 8/10/06, two pages
- H. Monthly unearned income, one page
- I. Data exchange inquiry, one page
- J. TPQY, one page
- K. SS award letter, two pages
- L. Insurance benefit, one page
- M. Medicaid budget, one page
- N. Liquid asset resources, one page
- O. Credit union statement, one page
- P. Vehicle/drivers license information, one page
- Q. Vehicle resources, one page
- R. Registration, one page
- S. NADA guide, two pages
- T. Vehicle resources, one page
- U. Car title, one page
- V. Medical insurance coverage, one page
- W. Copy of insurance card, one page
- X. Application follow up, one page
- Y. Verification request checklist, one page
- Z. CMS/disability referral, two pages
- AA Application for Medical Assistance, nine page

Appellant's exhibit:

- 1. State hearing request, two pages