STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████████████

       Claimant

By: ████████████

      Daughter

Reg. No: 2009-20266
Issue No: 2021
Case No: ████████
Load No: ████████
Hearing Date:
September 15, 2009
Marquette County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9;

and MCL 400.37 upon claimant's representative's [hereinafter claimant] request for a hearing.

After due notice, a telephone conference hearing was held on September 15, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's 12/1/2008 MA

Long Term Care (LTC) 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)   On 12/1/2008, claimant reapplied for MA/LTC, including three months of retro.

(2)   On January 16, 2009, the DHS received verification of a whole life insurance

policy with a cash value of $7,907.

(3)   Claimant's asset limit is $2,000.

(4)   On 2/12/2009, the DHS issued a denial notice due to excess assets. Exhibit 5.

(5)   On 3/16/09, claimant's daughter requested a hearing.

(6)   On 9/3/09, claimant passed away.

(7)   Claimant's daughter was handling claimant's verifications and was not aware of the insurance policy.

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).

Applicable policy and procedure to the case herein is found in PEM Items 400, 401, 402. Also applicable is PAM Item 115.

In this case, claimant had a whole life insurance policy. Policy states:

> **Life Insurance Value**
>
> **SSI-Related MA**
>
> A life insurance policy is an asset if it can generate a CSV. A policy is the policy owner's asset.
>
> .   A policy's value is its CSV. A policy can generate a CSV, but have a CSV of zero. Such a policy is an asset with zero value.
>
> .   Generally, term insurance does **not** have a CSV. Whole or straight life policies generate a CSV.
>
> .   The CSV usually increases over time. A loan against a policy reduces its CSV. Pre-death payment of the death benefit might reduce the CSV. See **"Accelerated Life Insurance Payments"** in BEM 500 about the payments received.
>
> .   CSV and FV are **not** the same thing. BEM, Item 400, p. 25.

Under certain circumstances, certain exclusions for life insurance may be relevant. None are applicable to the facts herein.

Verification received from ███████████████ indicates that the cash surrender value of the policy was $7,907. The asset limit per PEM Item 400 for a fiscal group of one for Long Term Care for Medicaid is $2,000. As such, claimant's assets exceed the asset limit. Claimant was not eligible at the time of application. The department was required under federal and state law to deny the application due to excess assets.

Claimant's daughter argued at the administrative hearing that she was not aware of the life insurance policy. Claimant further argued that had she been aware of the life insurance policy, she would have spent it down some year or years previous when her father was on Medicaid. Claimant cited no law or authority which would give her a right to prevail due to her failure to disclose all assets and her representation that she was not aware of the existence of this policy. The department's denial is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial in this matter is UPHELD.

/s/_____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed:_ September 15, 2009_____

Date Mailed:_ September 17, 2009_____

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 mailing date of the rehearing decision.

JS/cv

cc: