

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2009-31916
Issue No: 2014

[REDACTED]

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. This matter was originally assigned to [REDACTED]. This matter was reassigned to ALJ [REDACTED] to complete the decision after complete review of the record. After due notice, an in person hearing was held on January 28, 2010. The Claimant was represented by her daughter, [REDACTED], and her son, [REDACTED] were present and testified.

ISSUE

Did the Department properly determine Claimant's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. The Claimant was sent a checklist and redetermination packet for MA and Medicare Savings Program.
2. The Claimant submitted the redetermination application, bank account printout, and cover sheet for an insurance policy from Midland Mutual Life insurance with a face value of \$6,000.00. (Department Exhibit 1 pgs 4-11).
3. On May 29, 2009, the Claimant was sent DHS 3503 Verification Checklist requesting additional information on insurance policy. (Department Exhibit 1 pg 14).

4. On June 10, 2009, a copy of national States Insurance Company policy with a face value of [REDACTED] was received. (Department Exhibit 1 pgs 15-17).
5. On June 11, 2009, the Claimant's daughter, [REDACTED] contacted the Department indicating that the [REDACTED] now called [REDACTED] was cashed out to purchase a funeral contract and the [REDACTED] policy was current. (Department Exhibit 1 pg 26).
6. On June 22, 2009, the Claimant was sent a Notice of Case Action indicating that the MA was closed for failure to provide verification regarding the purchase of the funeral contract and exceeded the income eligible limits. (Department Exhibit 1 pgs 30-33).
7. On July 16, 2009 the Department received the Claimant's Request for Hearing DHS 1605 protesting the Department's determination of her MA determination and appointing her daughter, [REDACTED] [REDACTED] as her representative.

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 - .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). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or 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. BAM 600.

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM).

Department Policy states

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). BAM 105

The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI related. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. BAM 105

GROUP 1 AND GROUP 2

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories.

MONTHLY DETERMINATIONS

MA-only eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BAM 105.

CHOICE OF CATEGORY

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial

category is the one that results in eligibility or the least amount of excess income. BAM 105.

This is an SSI-related Group 2 MA category. Consider eligibility under this category only when eligibility does **not** exist under BEM 155 through 164, 170 or 171. Consider Medicare Savings Program eligibility (BEM 165) in addition to Group 2 MA. MA is available to a person who is aged (65 or older), blind or disabled. All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to BEM 546 to determine the post-eligibility patient-pay amount. BEM 166. The Claimant in this matter was born July 20, 1923. She is aged as she is older than 65 years.

Groups Use fiscal and asset group policies for SSI-related groups in BEM 211. Assets Countable assets **cannot** exceed the asset limit in BEM 400. Countable assets are determined based on MA policies in BEM 400, 401 and 402. Divestment Policy in BEM 405 applies. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. Apply the MA policies in BEM 500, 530, 540 (for children) or 541 (for adults), and 544 to determine net income.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if **not** paid directly such as income paid to a representative.

Countable Income means income remaining after applying the policy in the income related items are called **countable**. This is the amount used to determine eligibility and benefit levels. Count all income that is **not** specifically excluded.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. BEM 500

Assets must be considered in determining eligibility for FIP, SDA, RAPC, LIF, Group 2 Persons Under Age 21 (G2U),

Group 2 Caretaker Relative (G2C),
SSI-related MA categories and AMP. BEM 400.

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).

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories. Use the special asset rules in BEM 402 for certain married L/H and waiver patients. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. At **application**, do not authorize MA for future months if the person has excess assets on the processing date. If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment; see BEM 405.

Life Insurance Definitions

SSI-Related MA Only

Cash surrender value (CSV) - the amount of money the policy owner can get by canceling the policy before it matures or before the insured dies. It may be titled the cash surrender value or the cash value.

Face value (FV) - the amount of the basic death benefit contracted for at the time the policy is purchased. It might be titled the face value, face amount, amount of insurance, amount of policy or sum insured. It does **not** include dividends or additional amounts payable because of accidental death or other special circumstances.

Insured- the person whose life the policy insures.

Insurer- the company that contracts with the policy owner.

Policy owner- the person who has the right to change the policy. This is usually the person who pays the premiums.

The policy owner and the insured can be different people. 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. Policies called graded term or level term may have a CSV and must be verified and counted as an asset.
- 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 is **not** the same thing.
- Tables included with a life insurance policy are not considered accurate. Verification of the CSV should be either a current notice (within the year) from the company or by contacting the company for the current value. BEM 400

The Claimant was over age [REDACTED]. She submitted a Redetermination packet for MA eligibility. The Claimant reported RSDI income in the amount of \$803.00. She also reported a life insurance policy with a value of \$6,000.00 and a funeral contract in the amount of \$2,100.00. Upon submission of verification documents, it was found that life insurance policy has a cash surrender value of [REDACTED]. Department policy BEM 400 indicates that the asset limit for MA is [REDACTED]. The Claimant's assets exceed this limit as the cash surrender value is [REDACTED]. Therefore, the Department properly determined that the Claimant exceeded the asset limit for this program.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department properly determined the claimant's eligibility for the MA program.

It is so ORDERED.

_____/s/_____
Kandra Robbins
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/17/11

Date Mailed: 3/17/11

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 receipt date of the rehearing decision.

[REDACTED]