

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a [REDACTED], who has since left employment with the State Office of Administrative Hearings and Rules. This hearing was completed by [REDACTED] after reviewing the record. The claimant in this case is deceased. The claimant's spouse was represented by attorney [REDACTED] daughter, appeared as a witness.

ISSUES

Did the department properly determine the claimant was excess assets for MA in March, 2010?

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 on [REDACTED]. The claimant also requested retro MA for [REDACTED] (Department Exhibit 9 – 15)
2. The claimant's daughter submitted an Assets Declaration form (DHS-4574-B) to the department on behalf of the claimant on or about [REDACTED] [REDACTED] (Department Exhibit 16)

3. The department computed the Initial Asset Assessment as [REDACTED]. The [REDACTED] the claimant could only keep [REDACTED] in assets. Notice of such was mailed to the claimant on March [REDACTED] (Department Exhibit 19 – 21)
4. A Verification of Assets form (DHS-20) was completed by [REDACTED] his spouse with a lowest balance of [REDACTED]. There was also a [REDACTED] with a lowest balance of [REDACTED]. (Department Exhibit 26)
5. A Verification of Assets form (DHS-20) completed by [REDACTED] for the month of [REDACTED] showed a lowest balance of [REDACTED] for the savings account and a lowest balance of [REDACTED] account. (Department Exhibit 27)
6. The claimant subsequently was approved for MA in [REDACTED].
7. The claimant was denied MA due to excess assets for [REDACTED] 25)
8. The claimant passed away on [REDACTED].
9. The claimant's son submitted a hearing request and authorization to represent from claimant's spouse on [REDACTED]

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

As an initial matter, it is noted that there was much discussion during the hearing of the issue of standing because the claimant was deceased prior to the hearing request and hearing. [REDACTED], was hired to represent the claimant's spouse in this hearing. Department policy indicates that for MA, a spouse may represent a deceased claimant in a hearing. BEM 600. Therefore, since the attorney was hired to represent the claimant's spouse, this Administrative Law Judge finds that he has standing and therefore, this hearing decision proceeded to the merits of the case.

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. 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. The applicable asset limit for SSI-related MA [REDACTED]. BEM 400.

An initial asset assessment is needed to determine how much of a couple's assets are protected for the community spouse. Do an initial asset assessment when one is requested by either spouse, even when an MA application is **not** made. BEM 402. An initial asset assessment means determining the couple's (his, her, their) total countable assets as of the first day of the [REDACTED] of care that began on or after [REDACTED] BEM 402.

The DHS-4574-B, Assets Declaration, is used to request an initial asset assessment. Notify both spouses in writing of the results of the initial asset assessment whether it is done prior to, or at the time of, an MA application. Use the following:

- DHS-4588, Initial Asset Assessment Notice, and
- DHS-4585, Initial Asset Assessment and Asset Record.

The above notices inform the couple of the:

- Total amount of their countable assets, and
- The protected spousal amount, and
- Their hearing rights.

Send copies of all verifications or other documents used in making the initial asset assessment along with each copy of the notices. BEM 402.

The protected spousal amount is the amount of the couple's assets protected for use by the community spouse. It is the **greatest** of one-half the initial asset assessment amount (although no greater than [REDACTED]), the amount determined in a hearing, the amount of assets transferred to the community spouse by the client pursuant to a court order, or [REDACTED]. BEM 402.

A completed, signed DHS-4574-B is used to request an initial asset assessment. All such requests, whether or **not** in conjunction with an MA application, must be registered and disposed of.

The determination of asset eligibility is a multi-step process.

1. Do INITIAL ASSET ASSESSMENT.
2. Determine PROTECTED SPOUSAL AMOUNT.
3. Determine couple's (his, her, their) countable assets for month being tested.

4. Subtract PROTECTED SPOUSAL AMOUNT from the couple's assets.
5. Compare result from step 4 to client's asset limit to determine if asset eligibility exists for month being tested.

Repeat steps 3, 4 and 5 for each month tested. For applicants, test each past month, including retro MA months, and the processing month. For MA recipients, test only the first future month.

The formula for asset eligibility is:

- The value of the couple's (his, her, their) countable assets for the month being tested
- **MINUS** the protected spousal amount
- **EQUALS** the client's countable assets. Countable assets must **not** exceed the limit for one person in BEM 400 for the category (ies) being tested. BEM 402.

In this case, the claimant and his spouse had assets valued at [REDACTED] for the Initial Asset Assessment (IAA). Half the IAA would be lower than [REDACTED]. Therefore, the department used the \$ [REDACTED] for the protected spousal amount because it was the highest figure allowed by department policy.

Asset eligibility is determined by taking the value of the couple's assets for the month being tested and subtracting the protected spousal amount. This results in the client's countable assets. For [REDACTED] the claimant and his spouse had assets valued at [REDACTED]. Subtracting the protected spousal allowance of [REDACTED] results in countable assets of [REDACTED], which is in excess of the [REDACTED] allowed by department policy. Thus, the department properly determined the claimant was excess assets for MA in [REDACTED]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant was excess assets for MA in [REDACTED]

Accordingly, the department's determination is UPHeld. SO ORDERED.

/s/ _____
[Redacted Signature]

Date Signed: [Redacted]

Date Mailed: [Redacted]

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]