

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201011581
Issue No.: 2013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 12, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne VanderHeide

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on August 12, 2010. The Claimant was represented by [REDACTED], Claimant's wife and POA, [REDACTED] was present and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Whether the Department properly counted the Claimant's assets for calculation of Medical Assistance Program (MA-P)?

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 June 1, 2009, the Department received the Claimant's application for public assistance seeking MA benefits.
2. An 8/18/10 Assessment of assets found that Claimant had \$28,924.55 in total assets. (Exhibit 1, pp. 1-2).
3. The Department found that the protected spouse amount was \$21,912.00, Claimant's countable assets for the month was \$25,969.85 and Claimant's countable assets were \$4,057.85. (Exhibit 1, pp. 3-4).

4. As a result, Claimant's income was over the \$4,000 asset limit for help with Medicare premiums as well as over the \$2,000 general MA asset limit.
5. The Department notified Claimant of his excess assets on 8/18/09. (Exhibit 1, p. 5).
6. Claimant testified that over \$5,000.00 worth of counted assets was paid by [REDACTED] for personal property losses following a home invasion.
7. At the hearing, the Department was unable to determine whether a Homestead-Loss Funds Exclusion was considered.
8. On October 14, 2009 the Department received the Claimant's Request for Hearing protesting the Department's determination of his assets.

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, formally known as the Family Independence Agency, 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 Reference Tables ("RFT").

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. BEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories: one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP-related or SSI-related. *Id.* To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* 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. *Id.*

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 155 through 174 describe SSI-related categories. Financial eligibility for Group 1 exists when countable income minus allowable expenses equals or is below certain income

limits. *Id.* The income limits vary by category and are for non-medical needs such as food and shelter. *Id.*

Assets must be considered in determining MA eligibility. BEM 400, p. 1. Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. BEM 400, pp. 1, 6. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 6. The Department is to assume an asset is available unless evidence shows that it is not available. BEM 400, p. 6.

A Homestead-Loss Funds exclusion of assets exists if the funds are not commingled with countable assets and not in time deposits. The Department is instructed to exclude funds an owner received for repairs or replacement of a damaged or destroyed homestead (example: insurance settlement) if:

- The owner intends to reoccupy the home, and
- There is a written repair/replacement agreement.

BEM 400, p. 11.

In the present case, the Claimant testified credibly that the information regarding the insurance payments for property damage was presented at the hospital before Claimant was transferred to a nursing home and to the Department at application. The undersigned finds the testimony credible as Claimant's disabling injury stems from a breaking and entering that necessitated the payment of the insurance funds. At the hearing, the Department was unable to determine, however, whether the homestead-loss funds exclusion would apply in this case. Accordingly, based on the facts and evidence presented above, the Administrative Law Judge finds that the Department needs to consider whether the insurance proceeds would qualify as an asset exclusion under the applicable policy and the Department's decision to deny MA effective 8/18/09 is REVERSED.

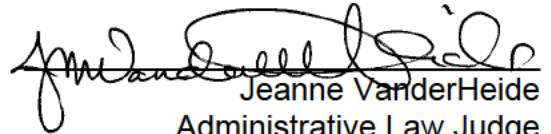
DECISION AND ORDER

1. The determination of the Department to deny Claimant's MA benefits effective 8/18/09 is REVERSED.
2. The Department shall recalculate the Claimant's assets with consideration as to whether the insurance proceeds meet a homestead-loss funds exclusion under BEM 400.
3. If Claimant's insurance proceeds meet a policy exclusion, the Department shall re-evaluate eligibility from the date of application through the present.

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4. If Claimant is found to be eligible, then the Department shall reimburse Claimant for any lost benefits he was otherwise eligible to receive in accordance with department policy.

/s/


Jeanne VanderHeide
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 24, 2010

Date Mailed: August 24, 2010

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 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.

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cc:

