

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-31175
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 17, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on August 17, 2010. Claimant did not appear as she is in a nursing home. Appearing and testifying on claimant's behalf was her daughter and power of [REDACTED].

ISSUE

1. Is the claimant's hearing request timely?
2. Did the department correctly deny claimant's Medicaid (MA) application for the months of February and March, 2009?

FINDINGS OF FACT

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

1. Claimant applied for MA in February, 2009.

2. Department determined that the claimant had excess assets for MA for the months of February and March, 2009.

3. Claimant had designated \$1500 of her life insurance policy value towards burial expenses through a letter of February 23, 2009, a designation allowed by departmental policy. However, due to department's conversion to the Bridges system, such designation was not allowed by the new system.

4. Claimant's caseworker attempted to obtain a policy exception in September, 2009, in order to allow for the exemption of \$1500 claimant designated for burial expenses, so the claimant could qualify for MA for the months of February and March, 2009. This exception request was denied.

5. Claimant's caseworker then notified the claimant of exception denial on October 9, 2009. Department received a copy of the hearing request on February 23, 2010, according to department's stamp on the request. Request was signed on December 31, 2009 and claimant's daughter states she had mailed the original to the department on this date.

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 (RFT).

Michigan Administrative Code R 400.904 provides that any hearing requested which protests a department action under the Michigan Social Welfare Act must be filed within 90 days. In claimant's case her hearing request was signed on December 31, 2009, but stamped as

received on February 23, 2010. Claimant's representative states she saved a copy of the original hearing request she submitted at the end of December, 2009, and that copy is what she used to re-request the hearing in February, 2010. The current hearing request is indeed a copy of the hearing page of October 9, 2009 notice. Claimant's February 22, 2010 letter with enclosed copy of the original hearing request also states that she had requested a hearing at the end of December, 2009 but has heard nothing on this request. Claimant's caseworker states that it is possible that the original hearing request was misplaced within the department. Based on persuasive representative's testimony and documentation provided, this Administrative Law Judge determines that the claimant's hearing request is timely, and will proceed in addressing the MA issue.

Claimant was applying for SSI-Related MA. The asset limit for this MA program is \$2000. Claimant had life insurance policy with cash surrender value of \$2960.04 according to the March, 2009 life insurance company statement. Departmental policy states that a limited amount of certain types of assets a person has clearly designated to pay for burial expenses are excluded as a burial fund from total countable assets for MA eligibility purpose. Life insurance is one of the types of assets that can be a burial fund. The asset must be clearly designated. The designation can be on the asset (example: title on a bank account, prepaid funeral contract) or on a signed statement from the client. The designation must include value and owner of the asset, whose burial the fund is for, date the funds were set aside for the person's burial, and form in which the asset is held (example: bank account, life insurance). BEM 400, pages 27 and 28.

In claimant's case department had a statement dated February 23, 2009 signed by claimant's power of attorney designating \$1500 from her life insurance policy (with policy number and form and name of company holding the asset). Hearing testimony by the department

indicates that the only reason why this statement was not acceptable was due to conversion to the Bridges system. Furthermore, it is unknown why department did not grant an exception to allow this designation to be entered into the system.

Department cannot disregard departmental policy only because the new computer system does not allow for certain entries that such policy clearly allows. Department therefore must grant the claimant MA coverage for the months of February and March, 2009, if the only issue is exemption of \$1500 of claimant's life insurance policy designated for her burial expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's MA coverage for the months of February and March, 2009. It is also noted that claimant's hearing request is considered to be timely.

Accordingly, department's action is REVERSED. Department shall grant the claimant MA coverage for the months of February and March, 2009, and enter the same on department's Bridges system. SO ORDERED.

/S/

Ivona Rairigh
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 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.

IR/tg

cc:

