STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████,

            Claimant

   By: ███████,
       Power of Attorney

Reg. No: 2010-41252
Issue No: 2021
Case No: ███████
Load No: ███████
Hearing Date:
September 8, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 September 8, 2010, in Kalamazoo. Claimant resides in a long-term care facility and did not appear. Claimant was represented by his POA (daughter). Claimant was represented by ███████████████████).

The department was represented by Terri Reed (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the department correctly decide to close claimant's MA-LTC case due to excess assets on March 25, 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)   Claimant is a resident of a long-term care facility and is an active MA-LTC

recipient. Claimant's finances are managed by his POA (daughter), █████████.

(2)   On April 25, 2009, claimant's son Steven died. On the date of death, ██████ had

a █████████████ which listed claimant as a beneficiary.

(3)   In October 2009, claimant's POA received life insurance proceeds from ████████

████████ policy totaling $26,464.

(4)   The ████████ proceeds were reported to DHS in a timely fashion.

(5)   On March 25, 2010, the caseworker prepared a March 2010 MA-LTC eligibility

budget. The budget shows the following assets:

Checking Account	$298
████████ insurance proceeds	<u>$26,464</u>
Total	<u>$26,762</u>

(6)   On March 25, 2010, the caseworker budgeted the $26,464 ████████ asset, based

on the ████████ statement provided by the POA.

(7)   In March 2010, claimant's MA-LTC asset limit was $2,000.

(8)   In March 2010, the POA met with a department representative and reported that

the ████████ insurance proceeds from ██████s policy were the subject of a complaint filed in

████████████████.

(9)   In March 2010, the POA verbally reported that she returned ████████████████

proceeds to ████████. No receipts were provided to the department by the POA.

(10)   On March 31, 2010, the POA requested a hearing. The claimant continues to

receive MA-LTC benefits pending this hearing request.

(11) The department received the following information about the lawsuit involving

the ▮▮▮▮▮ proceeds:

> Notice #1 was provided on February 19, 2010 when claimant's POA reported to the department that her father received life insurance proceeds for ▮▮▮▮▮ and that ▮▮▮▮▮ was contesting the distribution which claimant received.

> Notice #2 occurred in March 2010 when the POA came to the DHS office and notified DHS that she had returned the ▮▮▮▮▮ proceeds of $26,464.

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).

The Medicaid program provides medical insurance for low income persons. The asset policy is found in PEM/BEM 200. To determine MA eligibility, the caseworker must calculate the total value of claimant's countable assets, including the value of checking accounts, annuities, trust accounts, etc. Claimant's total countable assets cannot exceed the applicable MA asset limit of $2,000.

The preponderance of the evidence in the record shows that the department received notice that claimant received ▮▮▮▮▮ benefits of $26,464. On March 25, 2010, the caseworker prepared an MA-LTC eligibility budget for claimant. According to the information in the file, claimant had a checking account ($298, and ▮▮▮▮▮ insurance proceeds ($26,464)).

At the time the caseworker prepared the March 25, 2010 eligibility budget, the only information she had from the POA was that claimant had received insurance benefits from █████ in the amount of $26,464. Claimant has not met his burden of proof to show that on the date the eligibility budget was prepared that claimant no longer had ownership of the $26,464 he received in October 2009.

The issue of claimant's ownership of the ███████ proceeds was not adjudicated on March 25, 2010. The caseworker was not permitted to speculate about the outcome of the lawsuit at the ████████████████████.

In summary, the preponderance of the evidence shows that claimant had legal title to the $26,762 ████████ proceeds on March 25, 2010 when the eligibility budget was prepared. Based on the information available to the department at the time the March budget was computed, the department was required to include the ███████ insurance proceeds of $26,464.

There is no evidence on this record that the department acted in a manner that was arbitrary or capricious.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly calculated claimant's MA-LTC eligibility for March 2010 and correctly decided to close claimant's MA-LTC case in March 2010, based on excess assets.

Therefore, the department is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 24, 2010

Date Mailed: September 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 receipt 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.

JWS/tg

cc: