

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.: 2010-44788
Issue No.: 2021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 19, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 a hearing. After due notice, a telephone hearing was held on August 19, 2010. The claimant appeared and testified. The Claimant was represented by his wife, [REDACTED], FIM and [REDACTED] Williams, ES appeared on behalf of the Department.

ISSUE

1. Whether the Department properly closed the Claimant's Food Assistance (FAP) case?
2. Whether the Department properly denied the Claimant's Medical Assistance ("MA") on the basis that their assets (insurance policies) exceeded the asset limit effective June 1, 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 FAP and MA assistance which application was registered on June 10, 2010. The application was filed on behalf of the Claimant and signed on March 2, 2010 by [REDACTED]
- 2) The Department did not provide the March 2, 2010 application for Medical Assistance as part of the hearing record.
- 3) The Claimant also applied for Medical Assistance in August of 2009 but never received notice of the outcome of the application but was denied on

the basis that the Claimant's assets exceeded the medical assistance asset limit.

- 4) The Department could not explain why the application dated March 2, 2010 was not received or registered sooner and did not confirm whether there was a date stamp on the application.
- 5) A Notice of Case action was issued on July 13, 2010 which denied the Claimant's FAP benefits as the Claimant's group's income exceeded the income limit for eligibility and the Medical assistance was denied because the group assets exceeded the allowable asset limit of \$3, 000.
- 6) The group's gross monthly income was \$2552. The claimant receives Social security in the amount of \$1606, the Claimant's wife receives Social Security in the amount of \$802 and the Claimant also receives a pension in the amount of \$144 per month.
- 7) The Claimant's gross monthly income exceeds the FAP income limit of \$1215 and the Department's determination that the Claimant is not eligible for FAP is correct.
- 8) The Department determined the Claimant's insurance policy had a face value of \$25,000 which was cashed in for \$64 on April 21, 2010. Asset value of the policy as determined by the Department was valued at \$11,029 which amount was not supported by documents provided by the Department at the hearing. Exhibit 5.
- 9) The Department also valued the Claimant's \$25000 policy at two different figures, \$10428.50 and \$13730.71 Exhibit 3
- 10) A second insurance policy was cashed in by the Claimant's wife and had a face value of \$10,000. The Department records indicated that it valued the cash value at \$601.12. The actual cash value was \$300. At the time of the hearing the policy had a cash surrender value of \$300. Exhibit 4
- 11) The Department did not provide the actual basis for its cash valuation of the life insurance for either the Claimant's life insurance or for the Claimant's wife's insurance.
- 12) The cash value of the policies was not the face value of the policy and based upon the testimony at the hearing, the policies had a total cash value of \$300 and \$64.

- 13) The Department erred when it determined that the cash value of the policies were \$11,029. Exhibit 5
- 14) The Claimant requested a hearing on July 15, 2010 protesting the denial of Medical Assistance and closure of its Food Assistance cases by the Department. The department received the request on July 21, 2010.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500

In this case, the Administrative Law Judge has reviewed the FAP budget and the Department's computation of unearned income and finds that it is correct. All the gross income must be counted and in this case totals \$2552. BEM 500. The dollar amounts of social security and pension were verified by the claimant as correct. Per RFT 250 the income limit for a FAP group of 2 members is \$1215 and thus the claimant is not eligible for FAP benefits because the FAP group's gross income exceeds the income limit.

The Medical Assistance (MA) program is established by the 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 (formerly 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 Program Reference Manual (PRM).

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.*

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 SSI related asset limit is \$2,000 for a group of one and \$3,000 for a group of two. BEM 400, p. 5. Lump sums and accumulated benefits are income in the month received. BEM 400, p. 10.

A life insurance policy is considered an asset if it can generate a cash surrender value (CSV). Generally, whole life insurance policies generate a CSV while term policies do not. A policy that generates a CSV is the policy owner's asset. BEM 400, p. 25.

In the present case, Claimant and his wife had two life insurance policies with a total CSV of \$346.00. The Department utilized a cash value for the policy that has no basis in fact and further did not state how it determined the cash value of the policies. The Claimant testified credibly as to the cash value of both policies and her testimony was straightforward and detailed. The Department agreed that the Claimant's policy was cashed in for \$64.00. The Claimant's wife credibly testified that her policy will yield \$300 from the insurance company. Therefore, under the above regulations, Claimant was not over asset to qualify for Medicaid on the basis of the cash value of the life insurance policies and the application for medical assistance should not have been denied. BEM 400 pages 24 -26. Accordingly, the Department's decision is REVERSED. Further the Claimant further credibly testified that an application for medical assistance was completed and submitted by L & S to the Department in March 2010. The Department confirmed that the application in its file was dated March 2, 2010 and could not explain why it was not registered until June 2010 and was unable to establish when it was received by date stamp. Accordingly it is found that the medical application should have a registration date of March 2, 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination to close the Claimant's FAP case is AFFIRMED.

The Department did not act in accordance with department policy when it denied Claimant MA benefits for excess assets due to its erroneous determination of the

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policies cash values and therefore its determination and denial of the March 2, 2010 application is REVERSED.

Accordingly, it is ordered:

1. The Department's is ordered to reinstate retroactively the Claimant's Medical application retroactive to March 2, 2010.
2. The Department is further ordered to determine eligibility of the Claimant for medical assistance as of March 2, 2010 date based upon a cash value of the two insurance policies in the amount of \$364.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 8/27/2010

Date Mailed: 8/27/2010

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 receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.

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