

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201049317
Issue No: 2021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 6, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on January 6, 2011.

ISSUE

Was the claimant's Medicaid application properly denied for excess assets?

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 Medicaid in Wayne County on May 27, 2010.
- (2) Claimant owned three annuities through her power of attorney representative with a value totaling \$131,000.
- (3) In April, 2010, the annuities were cashed out and used to buy a piece of women's jewelry worth \$114,736.52.
- (4) The annuity monies were also used to buy other exempt assets that are not at issue in this hearing.

- (5) The piece of jewelry is kept in a safe deposit box; claimant does not retain the piece in her possession.
- (6) Claimant has no discernable personal attachment to the piece.
- (7) The Department refused to consider the piece as an exempt asset; the possession of this asset placed claimant above the asset limit for the MA program.
- (8) Claimant's MA application was denied on June 30, 2010.
- (9) On July 13, 2010, claimant requested a hearing, arguing that the piece was an exempt asset, and should not have been considered in the asset determination made by the Department.
- (10) Claimant was represented by [REDACTED]
[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 Bridges Reference Manual (BRM) and Reference Tables (RFT).

With regard to the Medicaid eligibility determination, the State of Michigan has set guidelines for assets, which determine if the Medicaid group is eligible. An asset is cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Personal property is any item

subject to ownership that is not real property (examples: currency, savings accounts and vehicles). BEM 400.

Personal goods are items of personal property that are worn or carried by a person **OR** that have intimate relationship to him. Examples are personal clothing and jewelry, personal care items, and educational or recreational items such as books, musical instruments or hobby material. BEM 400.

Personal goods are excluded assets for the program in question. BEM 400.

Countable assets cannot exceed the applicable asset limit; however, not all assets are countable. The asset limit for the program in question was \$2000. Countable assets are based on SSI-related MA policy and FIP related Medicaid policy contained in the Bridges Eligibility Manual. BEM 400.

Prior to application, claimant's representative took \$131,000 of the claimant's cash assets (which in turn were converted from the sale of annuities), and used it to buy, among other things, a piece of jewelry valued at \$114,736.52. The rest of the cash was converted into excluded assets that are not at issue in the current case.

When claimant applied for MA in May, 2010, the Department took note of the jewelry, and decided it was not a personal good. The Department therefore considered it a countable asset, and used it to deny claimant's MA application.

The Department argued at hearing that the piece in question had no intimate connection to the claimant—that the purchase was nothing more than a sham purchase used by the claimant to skirt MA eligibility rules. After consideration, the undersigned agrees with the Department's contention that claimant had no real connection to the piece.

Claimant admitted under oath that the piece was kept in a safety deposit box; claimant had never worn the piece to any formal occasion, and had only actually seen the piece once. The piece was bought weeks before the application, and by all appearances, it was bought only to reduce and convert claimant's cash assets into an excludable asset, therefore reducing claimant's countable assets below the threshold for which she would normally be considered ineligible for MA, while simultaneously avoiding divestment penalties.

Fortunately for the claimant, none of this matters.

BEM 400 is clear: jewelry is a personal good. At no point in policy does it say that an applicant must have an intimate relationship to the item in question—the use of the word “or” in the policy preceding the term “intimate relationship” is used merely to state one of the conditions with which a personal good that is not one of the listed examples can still be considered a personal good. Jewelry is given as a specific example of a personal good, and at no point is an intimate relationship a prerequisite to having jewelry counted in this category. Therefore, as jewelry is a personal good, and as all personal goods are excluded assets, the jewelry in question, no matter the motivation for its purchase, must be considered an excluded asset. As the jewelry is an excluded asset, the Department was incorrect when it refused to consider the piece as an excluded asset.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was incorrect when it determined claimant assets exceeded the asset limits for the Medicaid program.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to process the MA application of May 27, 2010,
without the consideration of the jewelry in question as a countable asset.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/29/11

Date Mailed: 06/30/11

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.

RJC/dj

cc:

