

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No: 2010-50281
Issue No: 2021
Case No: ██████████
Load No:
Hearing Date:
February 16, 2011
Berrien 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 February 16, 2011 in Benton Harbor. Claimant is confined to a long-term care center and did not appear. Claimant was represented by ██████████ (██████████).

The department was represented by Darlene Leonard (FIM), Amy Timm (ES) and Ramona Burkett (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUES

- (1) Did claimant file a timely hearing request to challenge the DHS denial of claimant's MA-LTC and medical savings applications (May 4, 2009)?
- (2) Did claimant file a timely hearing request to challenge the department's denial of claimant's MA-LTC application (September 30, 2009)?
- (3) Did claimant file a timely hearing request to challenge the DHS denial of claimant's MA-LTC application (November 30, 2009)?
- (4) Did claimant file a timely hearing request to challenge the DHS denial of claimant's MA-LTC retro application (April 23, 2010) which requested MA-LTC for January, February, and March 2010?

- (5) Did DHS correctly deny claimant's April 23, 2010 retro application (January, February and March 2010) based on claimant's excess assets (Farm Bureau Life insurance policy)?

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 resides in a long-term care facility in Benton Harbor. His spouse handles his financial affairs.

ISSUE #1

- (2) On May 4, 2009, [REDACTED] filed an MA-LTC and Medical Savings application for her husband.
- (3) On June 8, 2009, DHS denied claimant's application. DHS sent claimant a denial notice (DHS-1605) on June 8, 2009. The DHS-1605 was mailed to claimant at the long-term facility where he resides ([REDACTED]).
- (4) The June 8, 2009 DHS-1605 was not returned to DHS by the [REDACTED].
- (5) On July 20, 2010 claimant's attorney filed a hearing request to challenge the June 8, 2009 denial of MA-LTC.
- (6) Claimant's July 20, 2010 hearing request was received more than 90 days after the June 8, 2009 denial notice was issued.

ISSUE #2

- (7) On September 30, 2009, claimant filed an MA-LTC application.
- (8) On November 17, 2009, DHS denied claimant's MA-LTC.
- (9) The November 2009 denial was mailed to claimant's spouse at her residence ([REDACTED]).
- (10) The November 2009 notice (DHS-1605) was not returned to DHS by the [REDACTED].
- (11) On July 20, 2010, claimant filed a hearing request to challenge the MA-LTC denial to challenge the November 2009 MA-LTC denial.

- (12) Claimant's July 20, 2009 hearing request was not timely.

ISSUE #3

- (13) On November 30, 2009, claimant filed an MA-LTC application for MA-LTC for current benefits.
- (14) On December 11, 2009, DHS denied claimant's application. DHS sent claimant a denial notice (DHS-1605) on the same date.
- (15) The DHS-1605 was mailed to claimant's spouse at her Sodus address.
- (16) The December 2009 notice (DHS-1605) was not returned to the department by the [REDACTED].
- (17) On July 20, 2010, claimant filed a hearing request to challenge the December 2009 MA-LTC denial.
- (18) The July 20, 2010 hearing request was received more than 90 days after the 1605 was issued.

ISSUE #4

- (19) On April 23, 2010, the claimant filed an MA-LTC application for April 2010 and the retro months of January, February and March 2010.
- (20) On July 20, 2010, DHS denied claimant's application.
- (21) On July 20, 2010, DHS sent claimant a denial notice (DHS-4598).
- (22) The DHS-4598 was mailed to claimant at her Sodus address.
- (23) The 2010 DHS-4598 was not returned to DHS by the [REDACTED].
- (24) On July 20, 2010, claimant filed a hearing request to challenge the denial of claimant's April 2010 application.
- (25) The July 20 hearing request was received within 90 days. It was timely. **This is the only timely application filed in this matter.**

ISSUE #5

- (26) In May 2007, DHS sent claimant a letter (DHS-4574B) requesting a list of claimant's assets for eligibility purposes.

(27) On May 15, 2007, claimant made the following disclosures of his assets:

Savings Bond	\$50
Checking Account	value not disclosed
Life Insurance Policy	Issuer and value of policy not disclosed.
██████████	value not disclosed

(28) On May 26, 2009, DHS sent claimant a Notice of Case Action (DHS-1605) advising claimant that his April 23, 2010 MA-LTC application had been denied due to excess assets (the ██████████ with a value of \$12,720).

(29) In May 2009, when information regarding claimant's life insurance policy was received, the MA-LTC asset limit was \$2,000.

(30) On March 8, 2010, an unknown person dropped off a letter from ██████████ Insurance stating that claimant's life insurance policy had a cash value of \$12,720. This is the first notice DHS received on the value of claimant's life insurance.

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 Administrative Law Judge has jurisdiction to hold hearings only on issues which are contested in a timely fashion. For MA-LTC purposes, this means that claimant had 90 days from the date of the written Negative Action Notice to request a timely hearing. PAM/BAM 600, MAC R 400.906.

ISSUE #1-4

Claimant's hearing requests dated July 20, 2010 were not timely filed except for the July 20, 2010 denial.

ISSUE #5

Medical Assistance program provides medical insurance for low income persons. The asset policy is found in PEM/BEM 400. Currently, the department has a \$2,000 asset limit for MA-LTC eligibility. PEM/BEM 400. See also PEM/PAM 105 and 640 and PEM/PAM 110.

To determine eligibility for MA, the caseworker must calculate the total value of claimant's countable assets, including the cash value of life insurance policies. In order to be eligible for MA, the claimant's total MA assets cannot exceed the applicable MA asset limit (\$2,000) which was in effect on the date of application. Since claimant had excess assets in July 2010, the date that he applied, the department correctly denied claimant's MA-LTC application due to excess assets.

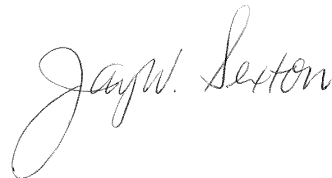
There is no evidence of arbitrary or capricious action by the department in processing claimant's MA applications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's July 2010 MA-LTC application due to excess assets ([REDACTED] Insurance policy).

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.



Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 9, 2011

Date Mailed: September 12, 2011

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:

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