

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: 201033731

Issue No: 2021

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. This matter was originally assigned to [REDACTED]. [REDACTED] is no longer employed by the State Office Of Administrative Hearings and Rules. This matter was reassigned to [REDACTED] to complete the decision after complete review of the record. Claimant's request for a hearing was received on February 23, 2010. After due notice, a telephone hearing was held on August 18, 2010. The Claimant and her authorized representative were present and testified.

ISSUE

Whether the Department of Human Services (Department) properly processed the Claimant's Medical Assistance (MA) application?

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 submitted an application for assistance on May 15, 2009.
2. All required verifications were received on November 18, 2009.
3. The Claimant reported 5 separate bank accounts in her name. (Department Exhibit pg 44).
4. Two of the bank accounts include the name of one of her children as well.

5. On November 25, 2009, the Notice of Case Action denying the Claimant's request for MA as a result of excess assets were sent to the Claimant and her Authorized Representative
6. On February 16, 2010, the Department received the Claimant's request for hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM). Department policy states:

BEM 105 DEPARTMENT POLICY MA Only

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. Medicaid is also known as Medical Assistance (MA).

SSI-RELATED AND FIP-RELATED

The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI

program. Therefore, these categories are referred to as either FIP-related or SSI-related.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. 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.

GROUP 1 AND GROUP 2

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories.

BEM 135 DEPARTMENT POLICY MA Only

This is a FIP-related Group 2 MA category.

MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to BEM 546 to determine the post-eligibility patient-pay amount.

NONFINANCIAL ELIGIBILITY FACTORS

A caretaker relative is a person who meets all of the following requirements:

- Except for temporary absences, the person lives with a dependent child. Dependent child is defined later in this item.
- The person is:
 - The parent of the dependent child; **or**
 - The specified relative (other than a parent) who acts as parent for the dependent child. Specified

relative is defined later in this item. Acts as parent means provides physical care and/or supervision.

- The person is not participating in a strike; and, if the person lives with his spouse, the spouse is not participating in a strike. Use the FIP striker policy in BEM 227.
- The **MA** eligibility factors in the following items must be met.
 - BEM 220, Residence.
 - BEM 221, Identity.
 - BEM 223, Social Security Numbers.
 - BEM 225, Citizenship/Alien Status.
 - BEM 255, Child Support.
 - BEM 256, Spousal/Parental Support.
 - BEM 257, Third Party Resource Liability.
 - BEM 265, Institutional Status.
 - BEM 270, Pursuit of Benefits.

FINANCIAL ELIGIBILITY FACTORS

Groups Use the fiscal group policies for FIP-related groups in BEM 211.

Assets Countable assets cannot exceed the asset limit in BEM 400. Countable assets are determined using BEM 400 and BEM 401.

Divestment Policy in BEM 405 applies because income can be divested.

Income Eligibility Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. Apply the MA policies in BEM 500, 530 and 536 to determine net income. If the net income exceeds Group 2 needs, MA eligibility is still possible. See BEM 545.

BEM 400 DEPARTMENT POLICY

FIP, SDA, RAPC, LIF, Group 2 Persons Under Age 21, Group 2 Caretaker Relative, SSI-Related MA, and AMP

Assets must be considered in determining eligibility for FIP, SDA, RAPC, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP. FIP, SDA, RAPC, LIF, G2U, G2C and AMP consider only the following types of assets:

- Cash (which includes savings and checking accounts).
- Investments.
- Retirement Plans.
- Trusts.

Assets Defined Assets means cash, any other personal property and real property.

Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property.

Personal property is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles).

MA ASSET ELIGIBILITY

LIF, G2U, G2C, AMP and SSI-Related MA Only

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. At **application**, do not authorize MA for future months if the person has excess assets on the processing date. If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment; see BEM 405.

AVAILABLE FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

An asset must be available to be countable. **Available** means that someone in the asset group has the legal right to use or dispose of the asset.

JOINTLY OWNED ASSETS

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

Jointly owned assets are assets that have more than one owner.

Note: For FTW determinations jointly owned assets are considered to belong to the initial person. An asset is unavailable if an owner **cannot** sell or spend his share of an asset:

- Without another owner's consent, and
- The other owner is not in the asset group, and
- The other owner refuses consent.

**Joint Cash and Retirement Plans
FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP**

This section applies to the types of assets listed under CASH and RETIREMENT PLANS in this item. Count the entire amount **unless** the person claims and verifies a different ownership. Then, each owner's share is the amount he owns.

Value of Cash FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

The value of the types of assets described above is the amount of the:

- Money/currency.
- Uncashed check, draft or warrant.
- Money in the account or on deposit.
- Money held by others.

**BEM 211 FIP-RELATED FISCAL GROUPS
Group 2 FIP-Related MA and Healthy Kids**

Determine the fiscal group for each person who is requesting MA. The fiscal group must be determined separately for each person. In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the client:

- The client's spouse, and
- The client's parent(s) if the client is a child. This means, for example, that:

- A child's income cannot be used to determine a parent's eligibility.
- A stepparent's income cannot be used to determine a stepchild's eligibility.
- A grandparent's income cannot be used to determine a grandchild's eligibility. But it also means that:
- A parent's income is considered in determining his/her child's eligibility.

In this case, the Claimant has five bank accounts with her name on them. Bank accounts are considered a cash asset as defined by policy. The Claimant does not dispute the two bank accounts that are solely in her name as assets. She states that the three bank accounts in which one of her sons is listed should not be counted as an asset for her. She states that the one bank account at US bank contains money paid as child support prior to her husband's death. She states that this money is to be used for her son's education. She states that the other two accounts with her sons name on them are the accounts in which the RSDI payments for her sons are deposited. The bank accounts are found to be jointly owned assets as defined in BEM 400 as they have more than one owner. The account at Fifth third bank ending in number 5285 is in [REDACTED] names. There is nothing in the record to indicate that the Claimant is not able to spend the asset without [REDACTED] consent. The account at Fifth third bank ending in number 5291 lists [REDACTED] as the account holders. Again, there is nothing in the record to indicate that the Claimant is not able to spend the asset without [REDACTED] consent. Although the Claimant states that the account at US Bank is her son Trent's account, the bank summary only lists [REDACTED] as the account holder. Therefore, this account is found to be an asset of the Claimant. The fact that the Claimant wanted to use this money for her son's education is not a reason to exclude the savings account. The Claimant had access to the account and it is, therefore, an asset. The Claimant has the right to use and dispose of the asset. The Department properly determined that the Claimant is an account holder of all 5 bank accounts. The Department properly determined the value of each account by using the account balance to determine the value. Based on the account balance for each bank account for the months of February 2009 through May 2009, the Claimant's assets exceeded the [REDACTED] asset limit as defined by policy.

