

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.: 201040424
Issue No.: 2001 / 2006
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 18, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 18, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUES

1. Whether DHS properly terminated Claimants' Adult Medical Program (AMP) benefits based on excess income.
2. Whether DHS properly denied Claimants' application for Medical Assistance (MA) benefits due to excess assets.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. Both claimants had an ongoing AMP case.
2. Claimants reported to DHS that [REDACTED] son gave Claimants a \$650/month income to assist with living expenses.
3. On 3/11/10, DHS determined that Claimants had excess income for AMP benefits and scheduled the AMP benefits to terminate effective 4/1/10.

4. Claimants requested a hearing on 6/11/10 concerning the closure of AMP benefits.
5. On an unspecified date following the closure of AMP benefits, Claimants applied for MA benefits based on disability.
6. Claimants received \$132,154.56 in 2009 based on a worker's compensation settlement.
7. Claimants reported to DHS that they exhausted the entire worker's compensation settlement fund by 8/2009.
8. On 6/21/10 and 7/12/10, DHS requested an accounting of how the worker's compensation settlement monies were spent.
9. Claimant provided receipts accounting for how approximately \$90,000 of the settlement money was spent including the specific following expenditures: \$59,900 for a house purchase, purchase and installation of windows for \$2585, \$6,000 for a new driveway, \$3187.17 for summer property taxes and \$292.11 in taxes for a second unknown property.
10. On an unspecified date, DHS denied Claimants' request for MA benefits due to excess assets.

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 (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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them. DHS offers many programs through which MA benefits may be obtained. AMP is one of the various MA programs offered by DHS.

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies are found in the Bridges Administrative

Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Persons may qualify for MA benefits under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. At the time of Claimants' AMP benefit case opening, both claimants were non-disabled, non-pregnant, non-caretakers of minor children between the ages of 21 and 65. At the time, the only MA program for which either claimant was eligible was AMP.

A donation to an individual by family or friends is the individual's unearned income. BEM 503 at 8. Claimants' gross income for 4/2010 was \$650, the income that was given to Claimants by a family member. AMP policy does not allow for any disregards of a group's unearned income. Thus, Claimants' \$650 in monthly gross income was also the proper amount of net income for purposes of AMP eligibility. \$650 was the amount of net income calculated by DHS. It is found that DHS properly calculated Claimants' net income for AMP benefits as \$650/month.

Income eligibility exists for AMP when the program group's net income does not exceed the program group's AMP income limit. BEM 640 at 3. The AMP net income limit for an individual and spouse is \$425/month. Claimants' net income exceeded the AMP income limit. It is found that DHS properly terminated Claimants' AMP benefits due to excess-income.

Subsequent to the AMP benefit termination on 4/1/10, Claimants applied for MA benefits and claimed a disability. If either claimant was found to be disabled, that person could be entitled to Medicaid through Aged-Disability Care (AD-Care).

For AD-Care asset-eligibility, countable assets cannot exceed the asset limit in BEM 400. BEM 163 at 1. The asset limit for a two-person AD-Care group is \$3,000. BEM 400 at 5. All types of assets are considered for SSI-related MA categories. *Id* at 2. Such countable assets include, but are not limited to: cash on hand, checking and savings account balances, investments, retirement plans and trusts.

In the present case, Claimants reported to DHS having zero assets despite receiving \$132,154.56 in a worker's compensation settlement the previous year. DHS made two requests for an account of the worker's compensation settlement monies. In response, Claimant verified approximately \$90,000 in expenditures.

It should be noted that DHS did not terminate Claimants' AMP benefits due to excess assets. AMP benefit asset eligibility requires \$3,000 or less in cash assets. BEM 400 at 4. Had the settlement been timely reported and timely processed, Claimants would have

lost the AMP benefits much sooner than 4/2010. No evidence was taken to determine whether the failure to budget the assets was caused by agency or client error.

DHS was asked what policy they relied on in requesting an accounting of how the worker's compensation settlement was spent. DHS was unable to cite any specific policy. DHS policy does not specifically authorize DHS specialists to request an accounting of how assets are spent. Specialists may request information regarding an eligibility factor when it is unclear, inconsistent, incomplete or contradictory. BAM 130 at 1.

The issue in the present case involves one of verifying information when the reported asset amounts are questionable. Claimants testified that they initially placed the entire award into the bank but steadily withdrew large amounts to purchase items in cash. If DHS were not allowed to inquire about an accounting, DHS policy could easily be exploited by having clients keep money outside of verifiable third party institutions, such as banks, and not reporting it as an asset. Without allowing DHS to request verification of how large sums of money was spent, clients could theoretically receive millions of dollars the month prior to applying for MA benefits and still be asset-eligible for MA benefits by telling DHS, "I spent it." It is found that DHS appropriately requested an accounting of Claimants' worker's compensation settlement monies as the reported information was debatably contradictory.

DHS testified that Claimants verified how approximately \$90,000 of the \$132,154.56 settlement award was spent. DHS determined that this amount was insufficient and determined that the failure to account for more of the expenditures was an appropriate basis to deny Claimants' request for MA benefits.

Whether the claimants sufficiently verified enough expenses to have met the DHS request is a very subjective issue. Every person spends various amounts on rent, food, utilities, leisure activities, gas and many other of life's expenses. Expecting a receipt for every one of these purchases is unreasonable. At some point, receipts verifying expenditures amounting to less than the full award should be sufficient to prove that the money was spent. On the other hand, there must be some equally subjective minimum amount required which makes it more likely than not that the assets were spent and not stashed.

The present case presents a very close call. Verifying \$90,000 out of more than \$132,000 is a significant amount of expense verification. \$42,000 is a significant amount of unaccounted expenses. Claimants' credibility would have been hampered if it was shown that Claimants failed to timely report the worker's compensation settlement; however, merely because the assets were not timely budgeted does not mean that Claimants failed to report it.

A document was submitted showing the award amount was agreed to by Claimant on 4/23/09. Claimants' application for MA occurred on an unspecified date after 4/1/10. It is somewhat reasonable over a one year period that two persons could spend \$42,000 and not account for the expenses. In the present case, the claimants each testified that the award money was spent by 8/2009, only three months after receiving the money. Spending \$132,000 in such a short time period tends to show that Claimants made large purchases.

Large purchases should be easier to verify than multiple smaller purchases. Yet, Claimants could not provide any testimony about how the unaccounted \$42,000 was spent except for \$5,000 to repay a loan from a family member. It is understandable that some receipts may be difficult or even impossible to obtain one year after a purchase. It is less understandable that Claimants could not testify how \$42,000 was spent and why a receipt was not obtainable.

Though Claimants should be given the benefit of any reasonable doubt in spending the assets, \$42,000 in unaccounted expenses is simply too much to reasonably overlook. Claimants provided an insufficient amount of documentation and explanation concerning the unaccounted \$42,000. It is found that \$90,000 in written verification of expense is not sufficient to verify expenditure of \$132,154.56. DHS properly denied Claimants' application for MA benefits.

Claimants may reapply for MA benefits at any time. Upon receipt of another application, DHS might again request Claimants to verify how their settlement assets were spent. The undersigned makes no decision regarding what amount would suffice to prove that Claimants exhausted their assets, only that Claimants failed to verify a sufficient amount to be asset-eligible for their previously filed application for MA benefits.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimants' AMP benefits due to excess income and properly denied Claimants' request for MA benefits.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

201040424/CG

Date Signed: August 27, 2010

Date Mailed: August 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 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.

CG/ hw

cc:

[REDACTED]