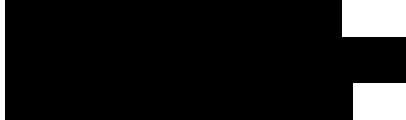


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2010-45153
Issue No.: 2006
Case No.:
Load No.:
Hearing Date: October 21, 2010
Oakland County DHS (02)

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 October 21, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), , Manager, appeared and testified.

ISSUE

Whether DHS properly denied Claimants' application dated 2/2/10 for Medical Assistance (MA) benefits due to a failure by Claimant to explain how assets from a \$45,000 lump sum payment received in 2009 were spent.

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 and her spouse received a gross amount of \$45,000 in a buy-out agreement (Exhibit 3) with Claimant's spouse's former employer.
2. Claimant applied for MA benefits on 2/2/10.
3. Claimant advised DHS that she and her spouse spent the \$45,000 received as part of Claimant's spouse's buy-out.
4. DHS inquired as to how Claimant spent the buy-out money and Claimant was unable to sufficiently explain how the money was spent.

5. On 3/18/10, DHS denied Claimant's application for MA benefits due to a failure to address questions concerning Claimant's assets.
6. Claimant requested a hearing on 4/29/10 concerning the denial of MA benefits

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.

Clients may qualify 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. The undersigned failed to receive evidence as to which type of MA program for which Claimant and her spouse were eligible. Thus, this decision will attempt to address the most probably scenarios.

Testimony was taken that Claimant may have been pregnant at time of her 2/2/10 application. If Claimant was pregnant or two months past her pregnancy date in 2/2010, Claimant could be eligible for Medicaid through Healthy Kids for Pregnant Women (HKP). BEM 125. There is no asset test for HKP; thus, Claimant's assets are irrelevant for her HKP eligibility. It is found that if Claimant was eligible for HKP in 2/2010; DHS erred by denying Claimant's MA benefits on the basis of a failure to verify asset information.

If Claimant's and her spouse's basis for MA benefits was based on being a caretaker for children or for being disabled, there is an asset test. For all possible MA categories, the applicable MA asset limit would be \$3,000. The present case involves a dispute of assets of \$45,000. Thus, the disputed issue is relevant and decisive to Claimant's and her spouse's MA asset eligibility.

DHS was asked what policy they relied on in requesting an accounting of how the buy-out payment monies were 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. 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 how Claimant and her spouse spent the buy-out money.

Claimant testified concerning how her buy out money was spent. Claimant's testimony included many inconsistencies which made her testimony as a whole, not credible. First, Claimant stated she only received two \$10,000 checks from the buy-out. A bank statement (Exhibit 2) verified that at least one check exceeded \$15,000. Secondly, Claimant testified that she was swindled out of \$35,000 in money by an unspecified third party. Claimant verified that she was suing the person for the money (Exhibit 1) but is only suing the person for \$9,250. Claimant's explanation that she was told by the police that only \$9,250 was recoverable was not persuasive.

Claimant also contended that nearly all of her buy-out money was swindled by the third party. In response, DHS alertly pointed out that Claimant's court documents concerning suing the third party swindler were dated in early 9/2010 and that Claimant received a \$15,000+ check after the filing of the court date. Thus, Claimant could not have been swindled out of \$15,000 unless she gave the money to the swindler after she was suing the person for fraud.

Based on all of the evidence, it is found that Claimant failed to credibly explain how her assets were spent. Accordingly, as far as Claimant's and her spouse's MA benefits eligibility as a caretaker or disabled individuals, DHS properly denied Claimant's application for MA benefits dated 2/2/10.

This administrative decision only affects Claimant's 2/2/10 application for MA benefits. As discussed in the hearing, Claimant may reapply for benefits at any time.

DECISION AND ORDER

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA benefits application dated 2/2/10 due to Claimant's questionable

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asset reporting as far as Claimant's eligibility for MA benefits through any program except Healthy Kids Pregnancy.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant may have been eligible for MA benefits through Healthy Kids Pregnancy as there is no asset test for this MA program. It is ordered that DHS reconsider Claimant's 2/2/10 eligibility for Healthy Kids Pregnancy and process Claimant's 2/2/10 application for MA benefits if she is found to be eligible for this MA program. The actions taken by DHS are partially REVERSED and REMANDED.

Christian Gardocki

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

Date Signed: 10/27/2010

Date Mailed: 10/27/2010

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.

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