

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: 2010-45648

Issue No: 2021

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 September 30, 2010. The claimant appeared and provided testimony. The claimant was represented by [REDACTED]. The claimant's witnesses included [REDACTED] her daughter and [REDACTED]. This hearing was originally held by Administrative Law Judge [REDACTED]. She has since left the employment of the State Office of Hearings and Rules. This Administrative Law Judge has reviewed the written and oral record and issues this decision in her stead.

ISSUE

Did the department properly deny the claimant's Medicaid (MA) application 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. The claimant applied for Medicaid on February 11, 2010.
2. The department issued a Notice of Case Action (DHS-1605) on April 23, 2010 denying the claimant's MA application due to excess assets. (Department Exhibit 5 – 6)
3. The claimant submitted a request for hearing on May 7, 2010.

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 Program Reference Manual (PRM).

Department policy states:

ASSETS

DEPARTMENT POLICY

FIP, SDA, 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, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP.

- . “CASH” (which includes savings and checking accounts)
- . “INVESTMENTS”
- . “RETIREMENT PLANS”
- . “TRUSTS” BEM, Item 400.

An asset converted from one form to another (example: an item sold for cash) is still an asset. BEM, Item 400, p. 1.

SSI Related MA

All types of assets are considered for SSI-related MA categories. BEM, Item 400, p. 2.

SSI-Related MA Asset Limit

SSI-Related MA Only

For Freedom to Work (PEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRA's and 401(k)'s) may be of unlimited value.

For Medicare Savings Program (BEM 165) and QDWI (BEM 169) the asset limit is:

- . \$4,000 for an asset group of one
- . \$6,000 for an asset group of two

For all other SSI-related MA categories, the asset limit is:

- . \$2,000 for an asset group of one
- . \$3,000 for an asset group of two. BEM, Item 400, p. 4.

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. BEM, Item 400, p. 6.

Assume an asset is available unless evidence shows it is **not** available. BEM, Item 400, p. 6.

Note: When a client has loaned money to another person please refer to the policy in Promissory Notes/LandContracts/Mortgages/Loans.

PROMISSORY NOTES/LAND CONTRACTS/MORTGAGES

SSI-Related MA Only

A **note** is a written promise to pay a certain sum of money to another person at a specified time. The note may call for installment payments over a period of time (installment note) or a single payment on a specified date. The most common type of note involves the sale of real property and is called a land contract or a mortgage. A homeowner might also sell his home via a sale-leaseback agreement.

The person who sold the property is holder of the note. The note is the holder's asset. BEM, Item 400, p. 22.

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.

In this case, the claimant is disputing the department's determination that she was excess assets to be eligible to receive MA benefits. Assets must be considered in determining eligibility for MA. BEM 400. The claimant is requesting an SSI-related Medicaid program. Department policy indicates that the claimant and her husband are mandatory asset group members. BEM 211. The total assets of the claimant and her husband must be considered. The claimant and her husband have an asset limit of [REDACTED] to qualify the claimant for MA. BEM 400.

The claimant's husband (an asset group member) won [REDACTED] in lottery winnings on October 23, 2009. The claimants also cashed out or took out loans on several life insurance policies and retirement accounts prior to their application for MA (Ohio [REDACTED] (two separate policies).

The claimants also claimed one of three vehicles was sold to the claimant's daughter and one of two motorcycles was sold. However, this still leaves two vehicles (1996 Mercury and 1005 GMC Safari), as well as one motorcycle (1984 Yamaha) as claimants' assets. Department policy only allows the asset group to exempt one motorized vehicle. BEM 400. Thus, the other vehicles must be included as countable assets.

It is clear from looking at the evidence presented, that the claimants have attempted to divest themselves of all of their assets to qualify for Medicaid. However, the attempts to do so are transparent and will not make the claimant eligible for Medicaid. The claimant's husband received [REDACTED] in lottery winnings. The claimants also cashed in a 401(k) policy in the amount of [REDACTED] and took loans on insurance policies in the amount of [REDACTED]. This results in cash assets of [REDACTED]. Even if the claimants' statements of expenditures are accepted as delineated in the letter from [REDACTED] (Department Exhibit 13), this leaves [REDACTED] cash unaccounted for, which alone would make the claimant excess assets.

Further, [REDACTED] indicates that the claimants loaned [REDACTED] business. Even if this is accepted (despite no documentation or proof of this to be true), promissory notes are considered the asset of the holder. BEM 400. Thus, the [REDACTED] is still considered an asset of [REDACTED].

It is also noted, that the claimants have only presented four receipts to demonstrate what payments were actually made from the cash proceeds. These include only payments on their mortgage, line of credit and a furnace that was installed. The

claimants present several savings account withdrawal receipts, but all but one of these were made out to “cash” with no evidence as to where the proceeds went.

Therefore, despite the transparent attempt to show otherwise, it is clear that the claimant is excess assets to qualify for Medicaid. The claimants have simply failed to show that they have disposed of their substantial assets on medical expenses, living costs and other debts. Thus, the department properly determined the claimant was excess assets to qualify for Medicaid.

