

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: 20109039

[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 November 3, 2009. After due notice, a telephone hearing was held on July 29, 2010. The Claimant's authorized representative, [REDACTED], was present and testified.

ISSUE

Did the Department properly determine Claimant's eligibility for Medical Assistance (MA) and retroactive Medicaid assistance?

FINDINGS OF FACT

This 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 Medicaid and Retroactive Medicaid benefits in August 2009.
2. Claimant's October 1, 2009 Redetermination form indicates, among other things, that Claimant's only asset is a vehicle with a lien on it. (Department Exhibit 6-9).
3. On October 24, 2008, the Department received from Claimant's guardian a bank statement from Communications Family Credit Union indicating that, between

September 1, 2008 and September 30, 2008, Claimant maintained a savings account balance in the amount of [REDACTED] (Department Exhibit 15-16).

4. On October 16, 2009, the Department obtained a bank statement from Isabella Community Credit Union indicating that, between September 1, 2009 and September 30, 2009, Claimant maintained a share account balance in the amount of [REDACTED] and a share draft account balance in the amount of [REDACTED] (Department Exhibit 20).
5. The Department sought but could not obtain verification that Claimant no longer maintained account balances with Communications Family Credit Union and Isabella Community Credit Union at the time of Claimant's Redetermination submittal.
6. On October 19, 2009, the Department notified Claimant that his MA benefits were terminated effective October 30, 2009 for the reason that Claimant's assets exceed the applicable asset limit.
7. On October 27, 2009, Claimant's guardian requested a hearing protesting the termination of Claimant's MA benefits.

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:

**BAM 105
CLIENT OR AUTHORIZED REPRESENTATIVE
RESPONSIBILITIES**

**Responsibility to Cooperate
All Programs**

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms.

**Refusal to Cooperate Penalties
All Programs**

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties.

**Verifications
All Programs**

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary

BAM 130 Department Policy

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

**Obtaining Verification
All Programs**

Tell the client what verification is required, how to obtain it and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2-3. The client must obtain required verification, but you must assist if they need and request help.

**Timeliness Standards
All Programs (except TMAP)**

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it.

All TOA

Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503.

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.

**SSI-Related MA
Asset Limit**

SSI-Related MA Only

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

- [REDACTED] for an asset group of one.
- [REDACTED] for an asset group of two.

**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. Assume an asset is available unless evidence shows it is **not** available.

**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.

Exception: Reduce the value of a time deposit by the amount of any early withdrawal penalty, but **not** the amount of any taxes due.

The Department obtained information indicating that the Claimant had assets. The Department requested that the Authorized Representative provide verification of all assets belonging to the Claimant. Department policy specifically states that bank accounts are assets. The Authorized Representative provided a bank statement for one bank. The bank statement showed an account balance of [REDACTED] for a Share account and [REDACTED] in a Share Draft account at Isabella Community Credit Union for

the Claimant. The Department was able to verify that the Claimant had a loan at the Communications Family Credit Union. The Communications Family Credit Union stated that in order for there to be a loan at their company, the Claimant must have an account. The Authorized Representative indicated that she had no knowledge of this account. The Department has never been given verification of the amount of the account that is at Communications Family Credit Union. BEM 400 indicates that the asset limit for a group of 1 is [REDACTED] for MA eligibility. The Claimant's accounts at the Isabella Community Credit Union have a balance of [REDACTED]. These accounts alone are in excess of the asset limit set by policy. Therefore, the Department found the Claimant not to be eligible for MA assistance because of excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did properly determine the Claimant's eligibility for MA assistance.

It is so ORDERED.

_____/s/_____
Kandra Robbins
On behalf of Jana Bachman
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 2/17/11

Date Mailed: 2/17/11

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.

[REDACTED]