

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2011-20473

Issue No: 2016

Case No: [REDACTED]

Load No:

Hearing Date:

June 8, 2011

Delta County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 in Escanaba on June 8, 2011. Claimant resides in a long-term care facility and did not appear at the hearing. Claimant was represented by her daughter, [REDACTED].

The department was represented by Jeff Gagnon (ES).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did DHS correctly deny claimant's MA-LTC application due to excess assets (bank accounts over \$2,000)?

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 is an LTC resident. She was unable to attend the hearing due to frail health.
- (2) On January 5, 2007, claimant formally appointed her daughter, [REDACTED], as her Power of Attorney for financial management purposes.

- (3) On December 21, 2010, the POA filed an application for MA-LTC benefits with Delta County.
- (4) On January 21, 2011, the caseworker sent the POA a DHS-3503 (Verification Checklist) requesting verification of claimant's trust funds, bank accounts and prepaid burial funds. The requested verifications were due on or before January 31, 2011.
- (5) On February 2, 2011, the caseworker received the requested verifications. Claimant's countable assets were reported as follows:

Checking and Savings Accounts (December 2010)	\$4,407
Checking and Savings Accounts (January 2011)	\$3,968
- (6) On February 3, 2011, the caseworker prepared an LTC eligibility budget. The budget shows assets in excess of \$2,000 for December 2010 and January 2011.
- (7) On February 3, 2011, the caseworker issued a case action notice (DHS-1605) stating that claimant was ineligible for MA-LTC for December 2010 and January 2011 due to assets in excess of \$2,000 for each of the requested months.
- (8) On February 14, 2011, the POA requested a hearing.
- (9) The POA thinks that the department's MA-LTC application process is complicated and that it was not clearly explained. She also thinks the DHS eligibility process is not "user friendly."
- (10) The department thinks that the DHS MA-LTC process was correctly followed and that the denial was issued in a timely fashion. (Claimant was subsequently approved for LTC benefits in February 2011.)

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department's policy manuals provide the following relevant policy statements and instructions for caseworkers:

FIP, SDA, LIF, SSI-related MA, SMP

Assets must be considered in determining eligibility for FIP, SDA, LIF, SSI-related MA categories and SMP, FIP, SDA, LIF consider only the following types of assets:

'Cash' which includes savings and checking accounts.

'Investments'

'Retirement Plan'

'Trusts', PEM Item 400, page 1.

ASSETS DEFINED

Assets mean cash, any other personal property and real property. Real property is land, objects fixed on the lands such as buildings, trees and fences. Condominiums are property. Personal property is any item subject to ownership that is not real property (examples: savings accounts and vehicles). PEM Item 400, page 13.

It is undisputed that claimant's countable MA-LTC assets in December 2010 exceeded the \$2,000 asset limit. Likewise, claimant's MA-LTC assets in January 2011 exceeded the \$2,000 asset limit. The claimant's main argument is that the department did not adequately explain DHS MA-LTC policy to claimant so that she was able to promptly close claimant's bank accounts and avoid an excess asset determination.

The Administrative Law Judge, based on a careful review of the entire record, concludes that claimant had countable assets (bank accounts) with a value in excess of \$2,000 in December 2010 and January 2011.

The department has established, by the competent, material and substantial evidence on the record that it acted in compliance with department policy when it decided that claimant was not eligible for MA-LTC for December 2010 and January 2011. Furthermore, claimant did not meet her burden of proof to show that the department's denial of her MA-LTC application was reversible error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's MA-LTC applications for December 2010 and January 2011 due to claimant's failure to establish the required asset eligibility for those months.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.



Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 17, 2011

Date Mailed: June 17, 2011

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 receipt 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.

JWS/tg

cc:

