

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-32088
Issue No: 2021

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400. 9; MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on July 20, 2010. The Claimant's daughter [REDACTED] appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's MA benefits?

FINDINGS OF FACT

- (1) Claimant applied for Medicaid-Long Term Care on February 4, 2011.
- (2) Claimant was discharged from long term care on February 28, 2011.
- (3) Claimant was eligible for Medicaid-Ad-Care for the month of February 2011.
- (4) Notice of case action was sent to Claimant on February 4, 2011 that divestment had occurred and that a divestment penalty was being imposed from March 1, 2011 through May 22, 2011.
- (5) Claimant requested a hearing on April 12, 2011 contesting the divestment penalty.
- (6) Claimant applied for Medicaid in another county following readmission to long term care on May 2, 2011. Claimant's representative did not know the status of that application.

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 Program Reference Manual (PRM). 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. The Medical Assistance program was designed to assist needy persons with medical expenses. The State of Michigan has set guidelines for income and assets, which determines if a MA group falls within the needy classification. 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.

Note: Do **not** deny or terminate TMA-Plus, Healthy Kids or Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining LIF, G2U, G2C or SSI-related MA eligibility. Use the special asset rules in BEM 402 for certain married L/H and waiver patients. See BPG Glossary, for the definition of L/H patient and BEM 106 for the definition of waiver patient. 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. BEM 400

Department policy outlines when a divestment penalty period runs: the penalty is applied to the months (or days) an individual is eligible for Medicaid and actually in LTC, Home Health, Home Help, or the MI Choice Waiver. BEM 405

In the present case, Claimant was eligible for Medicaid-Ad Care for the month of February 2011, the month she was in long term care. Claimant left long term care on February 28, 2011. Pursuant to Department policy the divestment penalty never ran because Claimant left long term care before it began. BEM 405 The divestment penalty had no effect on her MA-LTC eligibility in [REDACTED] and is therefore moot. This ALJ finds that the Department has acted in accordance with Department policy and law in determining MA-LTC benefits. It was explained to Claimant's representative at hearing that if Claimant disagreed with the determination made on the new application in a different county that a hearing could be requested.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in the determination of Claimant's MA benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: _____ 7/25/11 _____

Date Mailed: _____ 7/25/11 _____

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 60 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.

AM/ds

