

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-36595
Issue No: 2021

[REDACTED]

Kalkaska County DHS-40

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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 21, 2010. The Claimant's POA and daughter [REDACTED] [REDACTED] appeared and testified. [REDACTED] ES appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's Medical Assistance- Long Term Care Program application due to 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) Claimant applied for MA benefits on March 23, 2011.
- (2) Claimant filed a previous application in December 2010 that was denied in March 2011 due to excess assets. This application was not processed within the 45 day standard of promptness.
- (3) MA benefits were approved and active for March 2011 going forward based on the second application.
- (4) Claimant requested a hearing on April 21, 2011 contesting 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 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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 the standard of promptness--**FIP, SDA, RAP, CDC, MA and AMP Only** Certify program approval or denial of the application within 45 days.
MA Only

The SOP for an **initial asset assessment** begins the date the local office receives a signed DHS-4574-B, Assets Declaration. Complete the assessment and mail the client and spouse a notice within 45 days; BAM 115

In the present case, Claimant argued at hearing that coverage should be active for February 2011 because had the first application been processed in a timely manner within the standard of promptness, then Claimant would have taken action sooner and would have been eligible in February 2011. Claimant's first application was not processed within the 45 day standard of promptness and the initial asset assessment

was not completed within that time frame as well. This was contrary to Department policy. BAM 115 Unfortunately, the remedy sought by Claimant is not permitted by Department policy. This Administrative Law Judge does not have the authority to order activation of coverage under these circumstances. Had Claimant requested a hearing shortly after the 45 day standard of promptness had run, then immediate processing could have been ordered. This ALJ finds that the Department has acted in accordance with Department policy and law in processing Medical assistance. Claimant testified that she was given assurances by the Department that the first application was being processed and that everything was in order. It appears that dealing with two different county offices contributed to the delays and miscommunications. Claimant's case was not handled properly, but Department policy does not permit the remedy that Claimant seeks. This Administrative Law Judge does not have equitable powers or the authority to override Department policy.

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 processing of Claimant's MA application, 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: 8/12/11

Date Mailed: 8/12/11

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

