

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.: 2011-398
Issue No.: 2000
Case No.: [REDACTED]
Hearing Date: January 10, 2011
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 10, 2011. The claimant appeared and testified. [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's MA benefits in 9/2010 due to excess assets by Claimant.

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 was an ongoing MA benefit recipient.
2. Claimant and DHS currently agree that Claimant had excess assets for MA benefit eligibility in 9/2010.
3. DHS terminated Claimant's MA benefits in 9/2010 due to excess assets.
4. Claimant reapplied for MA benefits on an unspecified date in 10/2010.
5. DHS denied Claimant's 10/2010 application for MA benefits on the basis that Claimant had excess assets.

6. DHS and Claimant currently agree that Claimant's 10/2010 application should not have been denied due to excess assets.
7. On 9/20/10, Claimant requested a hearing disputing the MA termination of 9/2010.

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 (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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. As a disabled or senior (aged 65 years or older) individual, Claimant's most beneficial MA program is through Aged-Disabled Care (AD-Care).

For AD-Care asset-eligibility, countable assets cannot exceed the asset limit in BEM 400. BEM 163 at 1. The asset limit for a one-person AD-Care group is \$2,000. BEM 400 at 5. 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. *Id* at 4.

In the present case, no testimony was taken concerning the specifics of Claimant's asset eligibility for MA benefits. Claimant and DHS agreed that Claimant had excess assets for MA in 9/2010 and that Claimant did not have excess assets for MA benefits in 10/2010. Accordingly, the parties agreed that DHS properly terminated Claimant's MA benefits for 9/2010 and improperly denied Claimant's subsequent application for MA benefits in 10/2010. DHS agreed to reinstate Claimant's 10/2010 application for MA benefits and to process the application subject to the agreement that Claimant was asset-eligible for MA benefits in 10/2010.

The undersigned is somewhat reluctant to adopt the settlement reached by the parties. Claimant's hearing request concerned a closure of MA benefits in 9/2010. At the time of

Claimant's request dated 9/20/10, the application for MA benefits submitted in 10/2010 had not yet occurred. Actions that occur following a hearing request are not appropriate issues for administrative hearings. In the present case, the undersigned will make a reluctant exception to this rule in the interest of maintaining the settlement reached by the parties. The below decision and order reflects this resolution.

As stated during the hearing, the concession that Claimant was asset-eligible for MA benefits in 10/2010 is not equivalent to a concession that Claimant is eligible for MA benefits. There are many factors that affect a MA benefit determination and assets are but one of the factors. DHS is still required to determine Claimant's income-eligibility (and other factors) prior to a decision on Claimant's eligibility for MA benefits. After receiving notice of the DHS decision, Claimant may request a hearing concerning the determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact, conclusions of law and by agreement of the parties finds that DHS properly terminated Claimant's MA benefits effective 9/2010. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact, conclusions of law and by agreement of the parties finds that DHS improperly denied Claimant's application dated 10/2010 requesting MA benefits. It is ordered that DHS reinstate Claimant's 10/2010 application and process the application subject to the agreement that Claimant is asset-eligible for MA benefits in 10/2010. The actions taken by DHS are PARTIALLY REVERSED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/18/2011

Date Mailed: 1/18/2011

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.

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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.

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