

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

IN THE MATTER OF:

[REDACTED]

Reg No: 201140966

[REDACTED]

Delta County DHS-21

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

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 August 18, 2011. The Claimant's guardian [REDACTED] appeared along with a witness [REDACTED] and both testified. The Department was represented by [REDACTED] ES.

ISSUE

Was the Department correct in denying Claimant's Medical Assistance Program eligibility 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 was a recipient of MA benefits.
- (2) Pursuant to a review in November 2010 it was determined that Claimant had stock holdings and a life insurance policy through [REDACTED].
- (3) Claimant discovered the assets in December 2010 and took action to convert the assets as quickly as possible.
- (4) Claimant cashed in the [REDACTED] and life insurance and purchased a prepaid funeral home contract on March 1, 2011 that made him eligible for MA effective March 1, 2011.
- (5) The Department determined that Claimant was ineligible due to excess assets for December 2010, January 2011, and February 2011.

- (6) Claimant requested a hearing on June 13, 2011 contesting the determination 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

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. BEM 400

In the present case, Claimant's guardian argued that he took action to convert the assets to excluded assets as quickly as possible and that it took until March 1, 2011 to convert the assets despite his best efforts. Claimant's guardian points out that he was unaware of the asset until this review and so was the Department. Claimant purchased the policy many years ago and was not aware that stock was issued to policy holders at some point. Department policy only looks to when the asset was available to the

Claimant. The asset was available, according to the Department's definition of available, to Claimant during the months of December 2010, January 2011, and February 2011 and therefore the assets are countable. The cash surrender value of the policy was [REDACTED] and the stocks were valued at [REDACTED]. Claimant did have excess assets for the months in question making him ineligible. BEM 400 This ALJ finds that the Department has acted in accordance with Department policy and law in determining Medical assistance eligibility. 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 eligibility, 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: 8/23/11

Date Mailed: 8/23/11

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

[REDACTED]