

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. 2011-53356
Issue No. 2021
Case No. [REDACTED]
Hearing Date: November 16, 2011
Livingston County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 November 16, 2011. Claimant was represented by [REDACTED].

ISSUE

Are assets of a trust created by a spouse's Will countable?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On June 9, 2009, by Will, the claimant's spouse executed a Special Supplemental Care Trust for her.
2. The daughter of the spouse is the main trustee and is authorized, but not required, to terminate the trust.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Facts above are undisputed.

The DHS claims the trust above is a Medicaid Trust and that, therefore, the assets are countable in determining continuing Medicaid eligibility.

The claimant claims that it is not a Medicaid Trust because the Trust resulted from the spouse's Will.

BEM 401, page 5, in pertinent part states:

A Medicaid Trust is a Trust that meets conditions 1 through 5 below:

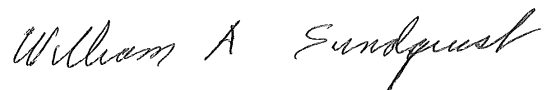
- . The Trust was not established by a Will.

Therefore, as a matter of policy, the trust assets are not countable.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that assets of a trust created by a spouse's Will are not countable.

Accordingly, Medicaid termination is REVERSED and reinstatement of benefits within ten days is ORDERED.



William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: December 8, 2011

Date Mailed: December 9, 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.

2011-53356/WAS

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.

WAS/tg

cc:

