

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: 2011-6482
Issue No: 2020
Case No: [REDACTED]
Hearing Date:
February 2, 2011
Wayne County DHS(82)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on February 2, 2011. The Claimant was represented by her authorized representative, [REDACTED], who appeared and testified on her behalf. Tiffany Tarrance, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Medical Assistance ("MA") on the basis that her asset (security deposit) for nursing home exceeded the asset limit, effective July 1, 2010.

FINDINGS OF FACT

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

- 1) The Claimant applied for MA assistance and also filed a retro active application for MA which application was registered on August 13, 2010. The application was filed on behalf of the Claimant by her authorized representative.
- 2) The Department denied retro active MA based upon a finding that the Claimant had excess assets as of June and July 2010.
- 3) The Claimant's authorized representative stipulated that the Claimant had excess assets in June 2010; however, disputed the Department's finding that the Claimant had excess assets in July 2010.
- 4) The Claimant resided and currently resides in a Long Term Care Facility.
- 5) On the Date of the application for MA, the nursing home used the Claimant's security deposit to pay for the outstanding July 2010 bill for nursing home services. Claimant Exhibit 1.
- 6) At the time the Claimant applied for medical assistance on August 13, 2010, the Claimant had an outstanding balance of \$7,914 for nursing home services.
- 7) The Claimant's security deposit was used by the Long Term Care facility to pay the outstanding bill for services.
- 8) At the time of application, the Department intake worker noted the security deposit had been spent.
- 9) The security deposit was not an available asset as it could not be converted into cash or otherwise accessed or spent by the Claimant.

- 10) A Notice of Case action issued on August 17, 2010, granted the Claimant medical assistance effective August 1, 2010, and denied the Claimant retroactive coverage for the period June 1, 2010 through July 31, 2010, due to assets in excess of \$2,000. Exhibit 1
- 11) The Department erred when it determined that the security deposit was a cash asset on the date of the application.
- 12) The Claimant requested a hearing on September 2, 2010, protesting the denial of retro active Medical Assistance due to excess assets in July 2010. The Department received the request on September 2, 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, formally 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 Bridges Reference Manual (“PRM”).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105, p. 1. Medicaid is also known as Medical Assistance (“MA”). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person

must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP related categories. *Id.*

Assets must be considered in determining MA eligibility. BEM 400, p. 1. Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. BEM 400, pp. 1, 6. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 6. The SSI related asset limit is \$2,000 for a group of one and \$3,000 for a group of two. BEM 400, p. 5. Lump sums and accumulated benefits are income in the month received. BEM 400, p. 10.

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, page 6.

The Claimant's authorized representative credibly testified that prior to signing the application for assistance he authorized the use of the security deposit be used to pay the outstanding balance for services which exceeded the amount of the security deposit. It is clear that the Claimant could not use or dispose of the security deposit as one would use or dispose of cash in hand or in one's bank account.

The security deposit in this case was not available for use by the Claimant or her authorized representative as it secured her place in the nursing facility and could not be converted into cash or used for any other purpose other than to pay for her long term care outstanding balance.

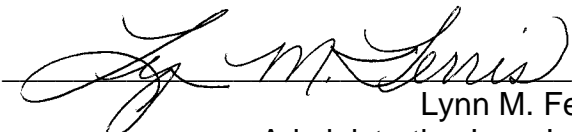
Therefore, under the above regulations, Claimant was not over asset to qualify for Medicaid on the basis of having excess over the \$2,000 limit and the finding of the Department to that effect for July 2010 is in error. The Department's denial of the Claimant's application for medical assistance as of July 1, 2010 was in error, BEM 400 id. Accordingly, the Department's decision is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department did not act in accordance with Department policy when it denied Claimant MA benefits for excess assets in July 2010, and its denial of Medical Assistance for the month of July 2010, due to excess assets is REVERSED.

Accordingly, it is ORDERED:

1. The Department's is ordered to reinstate retroactively the Claimant's application for retro active coverage for Medical Assistance retroactive to July 1, 2010.
2. The Department shall reprocess the application and determine eligibility of the Claimant for Medical Assistance as of July 1, 2010.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/10/11

Date Mailed: 02/16/11

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 90 days of the filing of the original request.

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.

LMF/dj

cc:

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