

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED]. The Claimant's authorized representative, [REDACTED] was present and testified.

ISSUE:

Did the Department properly determine Claimant and her husband's eligibility for Medical Assistance (MA) and retroactive Medicaid assistance?

FINDINGS OF FACT:

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

1. [REDACTED] submitted an application for MA on behalf of [REDACTED] on [REDACTED]
2. [REDACTED] had been receiving MA as a waiver client. (Hearing Summary).
3. On [REDACTED] a Verification Checklist requesting proof of the value of some real property / mobile home was sent to the Claimant. (Department Exhibit 1, pgs 14-15).
4. The Department gave 3 extensions to provide the information on August 3, 2010, [REDACTED]. (Department Exhibit 1, pg 16).

5. On [REDACTED] the Claimant's authorized representative sent a letter to the Department indicating that no additional information had been received by the Claimant and the Department should make a decision based on the information provided. (Department Exhibit 1, pg 17).

The Claimant had provided a letter indicating that the home was condemned, the township tax valuation, Notice of Condemnation, 3 photos, and a land contract. (Department Exhibit 1, pgs 18-27).

6. The township tax valuation listed the land value as [REDACTED] and building value as [REDACTED]. (Department Exhibit 1, pg 20).
7. The Claimant was sent a Notice of Case Action on September 17, 2010. (Department Exhibit 1, pgs 9-11).
8. On [REDACTED], the Department received the Claimant's request for a hearing.

CONCLUSIONS OF LAW:

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM). Department policy states:

BAM 105 CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

**Responsibility to Cooperate
All Programs**

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms.

**Refusal to Cooperate Penalties
All Programs**

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties.

**Verifications
All Programs**

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary

BAM 130 Department Policy

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

**Obtaining Verification
All Programs**

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2-3. The client must obtain required verification, but you must assist if they need and request help.

**Timeliness Standards
All Programs (except TMAP)**

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Send a negative action notice when:

- the client indicates refusal to provide a verification, **or**

- the time period given has elapsed and the client has not made a reasonable effort to provide it.

**BEM 400 DEPARTMENT
POLICY FIP, SDA, RAPC, LIF, Group 2 Persons Under
Age 21, Group 2**

Caretaker Relative, SSI-Related MA, and AMP

Assets must be considered in determining eligibility for FIP, SDA, RAPC, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP. FIP, SDA, RAPC, LIF, G2U, G2C and AMP consider only the following types of assets:

- Cash (which includes savings and checking accounts).
- Investments.
- Retirement Plans.
- Trusts.

Assets Defined Assets means cash, any other personal property and real property.

Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property.

Personal property is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles).

**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. 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.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment; see BEM 405.

**SSI-Related MA
Asset Limit**

SSI-Related MA Only

For all other SSI-related MA categories, the asset limit is:

- [REDACTED] for an asset group of one.
- [REDACTED] for an asset group of two.

**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. Assume an asset is available unless evidence shows it is **not** available.

**BEM 400 Real Property Definition
SSI-Related MA Only**

Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property.

**Real Property and Mobile Home Value
SSI-Related MA Only**

The value is the equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision.

To determine the value of real property and mobile homes use:

- Deed, mortgage, purchase agreement or contract.
- State Equalized Value (SEV) on current property tax records multiplied by two.

- Statement of real estate agent or financial institution.
- Attorney or court records.
- County records.

Liens must be filed with the register of deeds or other appropriate agency. BEM 400, pg 19.

Homestead-Loss Land Exclusion SSI-Related MA Only

Exclude the land of a damaged, destroyed or condemned homestead if:

- The owner intends to reoccupy it, and
- There is a written repair or replacement agreement.

The client must declare an estimated completion date. The exclusion lasts until that date. The local office may grant extensions. BEM 400, pg 21.

The Department obtained information indicating that the Claimant had assets. The Department requested that the Claimant / Authorized Representative provide verification of all assets belonging to the Claimant. Department policy specifically states that real property is an asset.

The Department had been provided the township tax valuation of the property. The Department used the value of the land alone rather than including the building as the home was condemned. Department policy requires that land may be excluded if the homestead is condemned if the owner intends to reoccupy it and there is a written repair agreement. The Claimant provided a letter to the Department indicating that they did not intend to reoccupy the property as they could not afford to fix it. Therefore, the Department was required to include the value of the property in determining the assets of the claimant. BEM 400 indicates that the asset limit for a group of [REDACTED] for MA eligibility. The value of the land was [REDACTED] based on the only information provided to the Department at the time of the determination. Therefore, the Department properly included this value as the value of the property.

The value of the land is in excess of the asset limit set by policy. Therefore, the Department found the Claimant not to be eligible for MA assistance because of excess assets.

DECISION AND ORDER:

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did properly determine the Claimant and her husband's eligibility for MA assistance.

It is so ORDERED.

_____/s/_____


Date Signed: 4/12/11

Date Mailed: 4/12/11

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 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.

