

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

IN THE MATTER OF: Reg
 Issue
 Case
 Hearing
February
Macomb

No: 20117912
No: 2021
No: [REDACTED]
Date:
 17, 2011
 County DHS (20)

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 17, 2011. The Claimant is deceased. [REDACTED], the Claimant's authorized representative appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's Medical Assistance ("MA") application because the Claimant's assets, (cash) exceeded the asset limit set by Policy.

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's authorized representative applied for Medical Assistance on June 27, 2008. The application was signed by the Claimant's mother on behalf of her deceased son, [REDACTED]
2. At the time of the application, the Claimant was deceased.
3. The application was denied by the Department, but was reprocessed as a result of a Decision and Order signed June 21, 2010 by Administrative Law Judge, Christian Gardocki. The Decision and Order confirmed a settlement of the matter. The Department agreed to reinstate and to reprocess the June 27, 2008 application in accordance with Department policy. ALJ Gardocki Decision, Exhibit 1.
4. On June 21, 2010, the application was reinstated and a Verification Checklist was sent to the Authorized Representative (AR) with a due date in August 2010. Exhibit 2
5. When the application was reprocessed, the AR pursuant to the request for asset verification on August 10, 2010 provided 3 documents, a 2008 verification of an account for [REDACTED], a note from [REDACTED] mother, and a 2010 bank verification stating no account was found for [REDACTED].
6. The AR provided a bank verification, originally provided to the Department in 2008. The document prepared by the bank indicated an account in the name of [REDACTED] containing \$20,645.84. Exhibit 3.

7. The AR submitted a further verification from [REDACTED] Bank in August 2010 indicating that a search of their records found no bank account in the Claimant's name. Exhibit 5
8. The AR also provided a handwritten note by the Claimant's mother, which stated that the money in her account did not belong to the Claimant. There is no further indication as to what account she was referring to. Exhibit 4
9. No documentary evidence supporting the existence of the Claimant's mother's account was produced or offered.
10. The Department denied the application due to excess assets stating: "Application was denied due to excess assets in 5/1/2008 for the amount of \$20,645.84, the account statement is in [REDACTED] name." Exhibit 6, Hearing Summary DHS 3050 11/19/10.
11. The deceased Claimant's mother's note was considered by the Department to be evidence of a joint account, and the Department attributed the funds in the account to all the owner's and found that the Claimant's assets were over the asset limit and that the account belonged to her, [REDACTED] and 3 of her children, which included [REDACTED]. Exhibit 6 Hearing Summary, 11/19/10.
12. The note signed by [REDACTED] which is an undated handwritten note, states: "To whom it may concern, in regards to the Bank account with [REDACTED] name on belongs to me. All three of my children were on it. It is not [REDACTED] money it is mine. Thank you." Exhibit 4.

13. The Department reprocessed the application and denied the application on August 13, 2010, due to its determination that the Claimant's had excess assets above the asset limit of \$2,000. Exhibit 2.
14. The Claimant's authorized representative filed a timely hearing request which was received by the Department on November 15, 2010, protesting the denial of Medical Assistance application by the Department due to excess assets.

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.*

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. In this case, the asset limit was \$2,000. BEM 400, p.5. Lump sums and accumulated benefits are income in the month received. BEM 400, p. 10. It is to be assumed an asset is available unless evidence shows it is not available.

The evidence presented at the hearing supports the Department's denial of the application for Medical Assistance based on excess assets. The most reliable information is the bank verification which was filed at the time of the original verification request in 2008, and provided a gain in August 2010. The bank verification bearing a fax date of July 3, 2008, indicates that the account bearing [REDACTED] name contained cash in the amount of \$20,645.84 in May 2008. Exhibit 3.

The bank verification search performed in 2010 at best supports the fact that in August 2010, no account was found by the bank for [REDACTED]. No AR who had contact with the bank appeared at the hearing.

The handwritten note by [REDACTED] stating all the money in the account was her money, and which states that the Claimant and two other siblings were on the account does not establish the actual existence of a joint account as no documentary evidence was presented which verified that such an account existed. More fatally, there is no way to establish what account the note is referring to. There was no documentary evidence presented supporting the existence of this joint account by way of bank

records, bank statements or account number. No independent information was provided which addressed the ownership, ownership shares or any further specific information regarding the account.

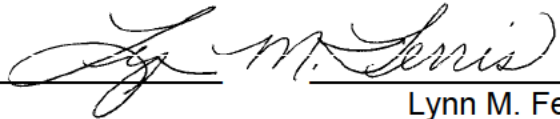
In this instance, it is determined that the Claimant's assets were in excess of the \$2,000 asset limit in May 2008 and thus the Department properly denied the application for medical assistance based upon the information available to it. The subsequent information from the bank indicates the bank did not find an account for [REDACTED] in 2010. The note from the decedent's mother, at best, is self-serving and does not establish even whether the account referenced in the note was the account which the bank verified in 2008 was [REDACTED] and which contained \$20,645.84. There was no reliable evidence produced to establish a joint account through bank records or testimony of any witness, including the deceased's mother.

Thus, it is concluded that at the time the Department made its decision to deny the application, it did so properly based upon the information provided to it and in accordance with the Department policy provided in BEM 400. In addition, BAM 130 requires the Department to make its decision on the best available information, which under the facts in this case it did. Based upon the foregoing, the Department's decision denying the Claimant's application for Medical assistance must be affirmed as the verification of assets provided to it indicated the Claimant's assets exceeded the asset limit of \$2,000. BEM 400. Accordingly, the Department's decision is affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department did act in accordance with Department policy

when it denied Claimant MA application due to excess assets and its decision is
AFFIRMED.



Administrative
for
Department

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

Date Signed: 03/17/11

Date Mailed: 03/21/11

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:

