

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

IN THE MATTER OF:



Reg. No: 2011-2626  
Issue No: 2021  
Case No: [REDACTED]  
Hearing Date  
February 17, 2011  
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on February 17, 2011. Claimant deceased on [REDACTED]. Claimant's wife brought this case forward.

**ISSUE**

Did the Department of Human Services (the department) properly conduct an appropriate initial asset assessment and determine that claimant was not eligible for long-term care Medical Assistance (MA) based upon 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) On March 23, 2009, claimant's wife applied for long-term care Medical Assistance for her husband.
- (2) Verifications were needed and supplied.
- (3) An initial asset assessment was done on May 24, 2010, a year after the application. The initial asset date used was November 1, 2007.
- (4) No one from the department was available to testify from personal knowledge as to why the initial asset date was November 1, 2007, nor

could anyone testify as to why it took over a year to make an initial asset assessment.

- (5) On May 24, 2010, the department caseworker sent claimant notice that the application was denied for excess assets.
- (6) On July 28, 2010, claimant filed a request for a hearing to contest the department's negative action.

### **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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the department is required to make an initial asset assessment. Because no one from the department was available to testify as to why they used the initial assessment date as November 1, 2007, and as to why the initial asset assessment was not made until May 24, 2010, the department caseworker conceded on the record that the case appears to have been inappropriately assessed.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it made an initial asset assessment of claimant's assets and determined that claimant had excess assets for purposes of long-term care Medical Assistance benefit eligibility.

Accordingly, the department's decision is REVERSED. The department is ORDERED to reinstate claimant's March 23, 2009, Medical Assistance application for long-term care and make an appropriate initial asset assessment based upon the information provided by claimant. After the department has done that, the department shall notify claimant of her eligibility or lack thereof in writing. Once the department has done the initial asset assessment, the department shall determine if all other non-medical eligibility criteria are met and notify the claimant in writing of her eligibility or lack thereof.

