

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201131376
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: August 15, 2011
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 15, 2011 from Detroit, Michigan. [REDACTED] appeared as Claimant's authorized hearing representative. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application dated 2/9/11 requesting MA benefits due to excess assets.

FINDINGS OF FACT

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

1. On 2/9/11, Claimant applied for MA benefits (including retroactive MA benefits from 11/2010).
2. At the time of Claimant's application, Claimant owned two properties, a residence on [REDACTED] and a residence on [REDACTED] where Claimant's son and daughter lived.
3. Claimant lived at [REDACTED] until recently when she began residing in a nursing facility.
4. The residence on [REDACTED] was worth approximately \$40,000.

5. On 4/9/11, DHS mailed Claimant a Notice of Case Action denying Claimant's application due to excess assets.
6. On 4/26/11, Claimant's daughter requested a hearing concerning the denial of MA benefits.

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). DHS 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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The undersigned will refer to the DHS regulations in effect as of 4/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

It should be noted that Claimant's daughter represented Claimant despite having no written authorization for doing so. DHS did not object to the representation. For purposes of this decision, the undersigned will honor the representation, however, it is uncertain that the representation was appropriate without Claimant's written authorization.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly 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.* It was not disputed that Claimant's basis for MA was one of the SSI-related categories.

The SSI-related MA category asset limit is \$2,000 for an asset group of one. BEM 400 at 5. For MA benefits, 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. *Id.* at 4.

A homestead is where a person lives (unless absent from Homestead) that he owns, is buying or holds through a life estate or life lease. BEM 400 at 22. DHS is to exclude the asset group's homestead. *Id.*

In the present case, there was no dispute that Claimant owned two homes, her residential property and a second home where Claimant's daughter and son lived. There was no dispute that Claimant's residence (prior to nursing home admission) is an excluded asset. What is at issue is whether a second home that Claimant owned should have been counted by DHS as an asset.

There was no dispute that Claimant's second home exceeded the \$2000 asset limit for MA benefits based on disability. DHS regulations have various criteria for when the value of a second home is or is not counted as an asset.

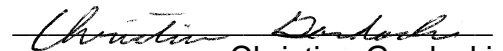
DHS is to exclude a homestead even if the owner never lived there provided: the owner is in an institution and the owner's spouse or relative lives there. *Id.* at 23. The undersigned considered this as a basis to exclude the second home as an asset, however, DHS correctly pointed out that this exception applies only to a homestead, not to a second home. Accordingly, DHS properly did not exclude the home as an asset on the basis that Claimant's relatives occupied the home.

DHS is to exclude up to \$6000 of equity in income producing real property if it produces annual countable income equal to at least six percent of the asset group's equity in the asset. *Id.* at 24. Countable income is total proceeds minus actual operating expenses. *Id.* Claimant's daughter conceded that the second home was not an income producing property. Thus, the above exception would not apply.

Based on the presented evidence, it is found that DHS properly included Claimant's second home as an asset. Accordingly, it is found that DHS properly denied Claimant's application for MA benefits due to excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's application for MA benefits due to excess assets. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

201131376/CG

Date Signed: August 17, 2011

Date Mailed: August 17, 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.

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.

CG/hw

cc:

