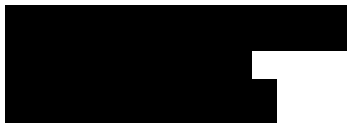


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES


IN THE MATTER OF:



Reg. No: 2011-31638
Issue No: 2021
Case No: 113694238
Hearing Date: July 21, 2011
Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 July 21, 2011. The claimant did not appear, but was represented by his daughter, , authorized representative.

ISSUES

Did the department properly determine the claimant was excess assets for the MA program for the month of September, 2010?

FINDINGS OF FACT

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

1. The claimant submitted an MA application on August 30, 2010.
2. The department mailed the claimant a Notice of Missing Information on September 7, 2010, informing the claimant that the signature page of the application was missing.
3. On September 27, 2010, the claimant's daughter submitted the signature page to the local office.
4. On October 29, 2010, the department mailed the claimant a Notice of Case Action (DHS-1605) that informed the claimant he was approved for MA beginning October, 2010, but that he was denied MA coverage for September, 2010 due to excess assets.
5. The claimant submitted a hearing request on December 22, 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 (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) and the Program Reference Manual (PRM).

Department policy states:

ASSETS

DEPARTMENT POLICY

FIP, SDA, 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, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP.

- . “CASH” (which includes savings and checking accounts)
- . “INVESTMENTS”
- . “RETIREMENT PLANS”
- . “TRUSTS” BEM, Item 400.

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). BEM, Item 400.

An asset is countable if it meets the availability tests and is **not** excluded. BEM, Item 400, p. 1.

SSI Related MA

All types of assets are considered for SSI-related MA categories. BEM, Item 400, p. 2.

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. BEM, Item 400, p. 3.

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. BEM 400.

SSI-Related MA Asset Limit

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

- . \$2,000 for an asset group of one
- . \$3,000 for an asset group of two. BEM, Item 400, p. 4.

REGISTERING APPLICATIONS

All Programs

Register a signed application or filing form, with the minimum information, within **one workday** for all requested programs. See Right To Apply in the **CLIENT RIGHTS** section in BAM 105 for the minimum information necessary to register an application. BAM 110.

An application **or** filing form, whether faxed, mailed or received from the internet must be registered with the receipt date, **if** it contains at least the following information:

- Name of the applicant.
- Birth date of the applicant (not required for FAP).
- Address of the applicant (unless homeless).
- Signature of the applicant/authorized representative.

An application/filing form with the minimum information listed above must be registered in Bridges using the receipt date as the application date even if it does not contain enough information needed to determine eligibility; see BAM 110.

If an application/filing form does not contain the minimum information listed above, send it back to the client along with a DHS-330, Notice of Missing Information, informing the client of the missing information. BAM 105.

In this case, the claimant's representative is disputing the department's determination that her father was excess assets for MA for the month of September, 2010. The department determined that the claimant had assets totaling [REDACTED] in September, 2010, which exceeds the allowable [REDACTED] MA asset limit for a group size of one. BEM 400. The claimant's daughter did not dispute that her father had these assets or the value of them. Further, the claimant's daughter testified that her father did not reduce his assets to the [REDACTED] asset limit until October, 2010 (which the department properly determined him eligible for).

The claimant's representative argues that if the department had the signature page of the application, they would have processed the application sooner and notified her father that he was excess assets, allowing him time to reduce the assets to below the [REDACTED] asset limit. However, this is not persuasive. First, the department representative testified credibly that the signature page of the application was not received when the application was submitted on August 30, 2010. This is the reason the DHS-330, Notice of Missing Information, was mailed to the client on September 7, 2010. Further, the client did not submit the signature page until September 27, 2010. Department policy indicates that an application will not be registered until it has the minimum information necessary. BAM 105, BAM 110. This necessary information includes the signature of the client or authorized representative. BAM 105, BAM 110.

However, even if the claimant's daughter's testimony is credited that the department lost the signature page and the application should have been considered complete on August 30, 2010, her father would still have been excess assets for August and September, 2010. The standard of promptness (SOP) to process an MA application is 45 days. Thus, the SOP for the determination would still have been into the month of October, 2010. The claimant's Notice of Case Action determining excess assets would have been timely issued in October, 2010, which is a month already approved by the department for MA coverage.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant was excess assets for the MA program for the month of September, 2010.

Accordingly, the department's determination is **UPHELD**. SO ORDERED.

Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

SM/cr

cc:

