

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-40969

[REDACTED]

Delta County DHS-21

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 9, 2011. The Claimant's daughter and authorized hearings representative [REDACTED] appeared for the Claimant. The Department was represented by [REDACTED]

ISSUE

Was the Department correct in determining Claimant's MA eligibility?

FINDINGS OF FACT

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

- (1) Claimant applied for Medicaid-Patient and Retroactive Medicaid on January 13, 2011.
- (2) MA benefits were approved and active for December 2010 going forward based on this application.
- (3) Claimant had stock holdings that were discovered in November 2010.
- (4) Claimant's power of attorney disposed of the stock holdings in December 2010.
- (5) Claimant used the proceeds of the stock holdings to pay for nursing home care in January 2011.

- (6) The Department found that Claimant was not eligible for retroactive coverage for October and November 2010 due to excess assets because the stock holdings were available to him in those months.
- (7) Claimant requested a hearing on June 8, 2011 contesting the determination 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). The Department of Human Services (formerly 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 Program Reference Manual (PRM). 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).

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.

Department policy defines "available" assets-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

In the present case, Department policy is clear that Medicaid coverage cannot be active for any months that the Claimant is not asset eligible. The asset limit for the Medicaid program is \$2,000. BEM 400 Claimant had the stock accounts or the proceeds available to him in October and November 2010 that had a value above the asset limit therefore Claimant was not eligible due to excess assets. This ALJ finds that the Department has acted in accordance with Department policy and law in determining Medical assistance eligibility. This Administrative Law Judge does not have equitable powers or the authority to override Department policy.

Claimant's daughter pointed out that all the proceeds from the sale of the stock were used to pay for Claimant's nursing home care. She stated that Claimant had no other funds available to him to pay for his nursing home care for October and November 2010 and that bills for those months to the nursing home remain outstanding. This Administrative Law Judge sympathizes with Claimant's circumstances and the circumstances of the nursing home but Department policy does not offer a remedy for these issues.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in determining Claimant's MA eligibility, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 8/11/11

Date Mailed: 8/12/11

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

AM/ds

