

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201250740
Issue No: 2020
Case No: [REDACTED]
Hearing Date: August 9, 2012
Genesee #06 County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on May 2, 2012. After due notice, a telephone hearing was held on August 9, 2012. Participants on behalf of Claimant included his [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant has countable assets that exceed the asset limit to receive Medical Assistance (MA)?

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's representative submitted an application for Medical Assistance (MA) on August 30, 2011, requesting retroactive Medical Assistance (MA) through June of 2011.
2. The Claimant is listed as a secondary joint owner of a bank account containing cash in the amount of [REDACTED].
3. On February 8, 2012, the Department denied the Claimant's application for Medical Assistance (MA) based on excess assets.
4. The Department received the Claimant's request for a hearing on May 2, 2012, protesting the denial of his application for Medical Assistance (MA) and retroactive Medical Assistance (MA).

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Assets must be considered in determining eligibility for Medical Assistance (MA). 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). Countable assets cannot exceed the applicable asset limit. Not all assets are counted. Some assets are counted for one program, but not for another program. Some programs do not count assets. An asset is countable if it meets the availability tests and is not excluded. 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. The asset limit for the Claimant to receive Medical Assistance (MA) is \$2,000. BEM 400.

The Department will assume an asset is available unless evidence shows it is not available. BEM 400.

Jointly owned assets are assets that have more than one owner. The Department will count the entire amount of an asset unless the person claims and verifies a different ownership. Then, each owner's share is the amount they own. BEM 400.

In this case, the Claimant's representative submitted an application for Medical Assistance (MA) on August 30, 2011, requesting retroactive Medical Assistance (MA) through June of 2011. The Claimant is listed as a secondary joint owner of a [REDACTED] k [REDACTED] containing cash in the amount of [REDACTED]. On February 8, 2012, the Department denied the Claimant's application for Medical Assistance (MA) based on excess assets because his countable assets exceed [REDACTED].

The Claimant's representative argued that this cash asset with a value of [REDACTED] is not an asset that was available to the Claimant, and that he had been placed on the account only to guard against the death or incapacity of the true owner. The Claimant's representative testified that the Claimant's interest in the cash account was only that of a beneficiary and that he did not have the right to withdraw these funds.

Bridges Eligibility Manual Item 400 instructs the Department to assume an asset is available unless evidence shows it is not available. When determining whether a cash asset is jointly owned, the Department will count the entire amount of an asset unless the person claims and verifies a different ownership.

Based on the evidence and testimony available during the hearing, the Claimant's representative failed to establish that the Claimant did not have access to the cash funds in the reported bank account. While the verification documents provided to the Department indicate the Claimant was a secondary joint owner, this is insufficient evidence that he did not have the authority to withdraw these funds. In the absence of evidence that the funds were not accessible by the Claimant, the Department was required to consider the entire amount a countable asset by BEM 400. This Administrative Law Judge finds that the Department applied the best information available at the time eligibility was determined. Since the value of this asset exceeded [REDACTED], the Department properly denied Medical Assistance (MA) due to excess assets.

The Claimant's representative argued that other assets reported as part of the application for Medical Assistance (MA) should be excluded from countable assets. Since the joint bank account countable value exceeds the asset limit it is not necessary to determine whether these other assets are countable.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Medical Assistance (MA) eligibility and denied his application due to excess assets.

The Department's Medical Assistance (MA) eligibility determination is **AFFIRMED**. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 15, 2012

Date Mailed: August 16, 2012

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.

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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.

KS/tb

cc:

