

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201263578
Issue No: 2006
Case No: [REDACTED]
Hearing Date: September 27, 2012
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on September 27, 2012. Claimant was represented by his authorized hearing representative [REDACTED].

ISSUE

Did the Department of Human Services properly deny Claimant's April 8, 2011 Medical Assistance (MA) application for failure to provide verification of his [REDACTED] 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 April 8, 2011, [REDACTED] submitted an application for Medical Assistance (MA) on behalf of Claimant.
2. On April 25, 2011, [REDACTED] was sent a Verification Checklist (DHS Form 3503). The "Other" section states "On the application it states that [REDACTED] but no spouse was listed. Please verify [REDACTED] marital status. If he is [REDACTED] information must be added to the application and verified. Please correct the application as needed."
3. On May 5, 2011, [REDACTED] requested an extension of time. The request stated "I am still trying to confirm his [REDACTED] and current bank verification. I will forward all information to you as soon as it is received."

4. On May 13, 2011, [REDACTED] requested another extension of time. The request stated "I am still trying to confirm his [REDACTED] and current bank verification. I will forward all information to you as soon as it is received."
5. On May 25, 2011, [REDACTED] sent a written and signed statement from Claimant's [REDACTED]. She wrote "I [REDACTED] and [REDACTED] have been [REDACTED] since the Middle Ninety's it's been so long to know the exact date." The correspondence stated that [REDACTED] believed the checklist was complete.
6. On June 21, 2011, [REDACTED] was sent a Verification Checklist (DHS Form 3503) requesting verification of all [REDACTED] income and assets. The verifications were due on June 30, 2011.
7. On June 30, 2011, [REDACTED] requested an extension. The correspondence stated "I'm waiting for Mr. White's [REDACTED] to complete the Asset Declaration and her [REDACTED]."
8. On July 6, 2011, [REDACTED] sociates was sent a Benefit Notice Form (DHS-176) stating Claimant's application was denied because requested verifications were not returned by checklist due date.
9. On October 3, 2011, [REDACTED] submitted a request for hearing.

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).

In this case [REDACTED] asserts that Claimant's [REDACTED] assets were not required. Because Claimant and his wife were not living together, [REDACTED] asserts that Bridges Eligibility Manual 211 MA Group Composition dictates she is not in Claimant's benefit group.

BEM 211 MA GROUP COMPOSITIONS

DEPARTMENT POLICY

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Use fiscal groups and, for SSI-related MA, Group 2 Persons under Age 21 and Group 2 Caretaker Relative, asset groups to determine the financial eligibility of a person who requests MA and meets all the nonfinancial eligibility factors for an MA category.

Individual family members may be eligible under different MA categories. You must explore all categories for each person who requests MA; see CHOICE OF CATEGORY in BEM 105.

RULES FOR GROUPS

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Determine the fiscal and asset groups separately for each person requesting MA. When referring to the group listings, remember:

- Only persons living with one another can be in the same group; see LIVING WITH.
- Certain persons cannot be fiscal or asset group members in SSI related MA; see EXCLUDED PERSONS.

LIVING WITH

Group 2 FIP-Related MA, Healthy Kids and SSI-Related MA

Living with others means sharing a home where family members usually sleep, **except** for temporary absences. A temporarily absent person is considered in the home.

Bridges Eligibility Manual (BEM) 211 does address the requirement of living together in order to be an MA group member. It also directs the use of both fiscal groups and asset groups to determine Medical Assistance (MA) financial eligibility. Determining a fiscal group, for purposes of establishing group income, is impacted by whether or not people are living together. Determination of an asset group is addressed in other Department policies.

BEM 400 ASSETS DEPARTMENT POLICY

Assets must be considered in determining eligibility for FIP, SDA, RAPC, LIF, G2U, G2C, SSI-related MA categories, AMP and FAP.

FIP, SDA, RAPC, LIF, G2U, G2C and AMP consider only the following types of assets:

- Cash (which includes savings and checking accounts).
- Investments.
- Retirement Plans.
- Trusts.

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).

Overview of Asset Policy SSI-Related MA

All types of assets are considered for SSI-related MA categories.

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.

Use the special asset rules in BEM 402 for certain married L/H and waiver patients. See BPG Glossary, for the definition of L/H patient and BEM 106 for the definition of waiver patient.

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 402 SPECIAL MA ASSET RULES DEPARTMENT POLICY MA Only

Unless the SPECIAL EXCEPTION POLICY in this item applies, an initial asset assessment is needed to determine how much of a couple's assets are protected for the community spouse. Do an initial asset assessment when one is requested by either spouse, even when an MA application is **not** made; see DEFINITIONS and INITIAL ASSET ASSESSMENT.

SSI-Related MA Only

Use this item to determine asset eligibility for the first period of continuous care (see DEFINITIONS in this item) that began on or after 9-30-89 when an L/H, PACE, or waiver client:

- Has a community spouse (see below), **and**
- A presumed asset eligible period has **not** yet been established, **or**

- If established, the presumed asset eligible period has **not** ended; see Presumed Asset Eligible Period in this item.

DEFINITIONS MA Only

Community spouse - Client's spouse when the spouse:

- Has **not** been, and is **not** expected to be, in a hospital and/or LTC facility for 30 or more consecutive days or approved for a waiver or Freedom to Work; or
- For waiver clients, the spouse is **not** also approved for the waiver or PACE.
- For PACE clients, the spouse is **not** also approved for the waiver or PACE.

In this case Claimant was still [REDACTED] and was going into a [REDACTED] so he was an [REDACTED]. Bridges Eligibility Manual 400, cited above, specifies that Bridges Eligibility Manual 402 be used for certain married [REDACTED]. Bridges Eligibility Manual 402, cited above, defines community spouse and there is no criteria regarding living together.

Claimant's [REDACTED] verifications were required to determine Claimant's Medical Assistance (MA) eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's April 8, 2011 Medical Assistance (MA) application for failure to provide verification of his wife's assets.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 18, 2012

Date Mailed: October 18, 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 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.

GHF/tb

cc:

