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

IN THE MATTER OF:



Reg. No.:2Issue No.:2Case No.:2Hearing Date:2County:4



ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on from Lansing, Michigan. Participants on behalf of Claimant included from the comparison of the comparison

ISSUE

Whether the Department of Human Services (Department) properly denied the Claimant's application for Medical Assistance (MA) based on excess 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. The Department completed an Initial Asset Assessment and Asset Record on
 - 2, the Department received the Claimant's application for Medical Assistance (MA) with retroactive assistance requested through
- 3. On application for Medical Assistance (MA) had been denied due to excess assets.

4. The Department received the Claimant's request for a hearing on protesting the denial of his Medical Assistance (MA) application.

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).

Countable assets cannot exceed the applicable asset limit. The Medical Assistance (MA) asset limit for a group of two is \$2,000. The Department applies special asset rules for certain married L/H patient. Department of Human Services Bridges Eligibility Manual (BEM) 400 (July 1, 2012), pp 1-5.

An L/H patient is a Medicaid client who was in the hospital and/or long term care facility in a hospital and/or long term care facility (L/H) month. A L/H month is a calendar month containing at least one day that is part of a period in which a person was or is expected to be in a long term care facility and/or hospital for at least 30 consecutive days and no day that the person was a waiver patient. Department of Human Services Bridges Glossary (October 1, 2012).

An initial assessment is needed to determine how much of a couple's assets are protected for the community spouse. The protected spousal amount is the amount of the couple's assets protected for use by the community spouse. Effective January 1, 2012, the protected spousal amount was one-half of the initial asset assessment amounts but not more than \$113,560. Department of Human Services Bridges Eligibility Manual (BEM) 402 (January 1, 2013), pp 6-7.

In this case, the Department completed an Initial Asset Assessment and Asset Record on a second and the Claimant's application for Medical Assistance (MA) with retroactive assistance requested through

On the determined that the Claimant and his spouse had countable assets of the month of the Department determined that the Claimant had countable assets of \$ which exceeds the asset limit of the Department determined that the Claimant had countable assets of \$ which exceeds the asset limit of the Department determined that the Department determined that the Claimant had countable assets of \$ which exceeds the asset limit of the Department determined that the Claimant had countable assets of \$ which exceeds the asset limit of the Department determined that the Claimant's countable assets exceeded the asset limit for each of the months where retroactive benefits were requested as well.

On the Department notified the Claimant that his application for Medical Assistance (MA) had been denied due to excess assets.

The Claimant's representative argued that based on the initial assessment of assets completed on **protocology**, and the amount of assets spend down in the following months, that the Claimant should not have exceeded the asset limit. The Claimant's representative does not dispute the countable assets used to make an eligibility determination but he testified that his reliance on the initial assessment of assets to become eligible.

The Department has the responsibility to inform clients of their right to apply for programs available to them but is not expected to provide estate planning advice, funeral planning advice, or the effect on eligibility of proposed financial arrangements. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), pp 8-9.

The Department has the burden of offering evidence to establish that it properly applied its policies to the Claimant's circumstance and the Claimant has the burden of establishing eligibility to receive benefits.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly applied its policies to the Claimant's circumstances when it determined that the Claimant was not eligible for Medical Assistance (MA) benefits due to excess assets. The Claimant's representative failed to establish that the Claimant is eligible for Medical Assistance (MA) based on her countable assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined that the Claimant is not eligible for Medical Assistance (MA) due to excess countable assets during from through the conclusion.

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: 06/11/2013

Date Mailed: 06/11/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration <u>MAY</u> be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings Reconsideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

KS/kl