

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201312695
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: April 17, 2013
County: Washtenaw County DHS #20

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 April 17, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] (Claimant's spouse/group member/Authorized Hearing Representative) and [REDACTED] [REDACTED] (Claimant). Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] (Family Independence Manager) and [REDACTED] [REDACTED] (Eligibility Specialist).

ISSUE

Due to excess assets, did the Department properly close Claimant's Medical Assistance (MA) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, including the testimony at the hearing, finds as material fact:

1. Claimant received MA benefits.
2. On November 7, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's MA case.
3. On November 9, 2012, Claimant filed a hearing request, protesting the closure of the MA case.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The MA program is also referred to as Medicaid. BEM 105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

MA Ad-Care is an SSI-related Group 1 MA category available to persons who are aged or disabled (AD). BEM 163. MA Ad-Care is used before using Extended Care (BEM 164) or any Group 2 MA category. BEM 163. The department will consider eligibility under this category only if eligibility does not exist under BEM 154 through 158. BEM 163.

In order to be eligible for MA Ad-Care, the client's net income cannot exceed 100% of the poverty level. BEM 163. All eligibility factors in this item must be met in the calendar month being tested. BEM 163. If the month being tested is an L/H month and eligibility exists, the department will go to BEM 546 to determine the post-eligibility patient-pay amount. BEM 163.

Assets must be considered in determining eligibility for SSI-Related MA categories. BEM 400. Assets are defined as cash, any other personal property and real property. BEM 400. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. BEM 400. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles). BEM 400.

"Cash" includes the following types of assets: (1) money/currency; (2) uncashed checks, drafts and warrants; (3) checking and draft accounts; (4) savings and share accounts; (5) money market accounts; (6) LTC patient trust fund and all other money held by the facility for the patient (i.e., patient has prepaid in advance for the nursing home stay); (7) money held by others (i.e., Sally does not have a bank account. She puts money in her mother's checking account, but it is not a joint account); (8) time deposits (a time deposit is a contract between a person and a financial institution whereby the person agrees to leave funds on deposit for a specified period in return for a specified interest

rate. Common time deposits are certificates of deposit (CDs) and savings certificates. BEM 400.

Countable assets cannot exceed the applicable asset limit. BEM 400. An asset is countable if it meets the availability tests and is **not** excluded. BEM 400. An asset must be available to be countable. BEM 400. "Available" means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400. The Department will consider availability and exclusions to determine if an asset is countable and how much to count. BEM 400.

The Department will consider the assets of each person in the asset group. BEM 400.

All types of assets are considered for SSI-related MA categories. BEM 400. Asset eligibility is required for SSI-related MA categories. BEM 400. 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.

For SSI-Related MA, the asset limit is \$2,000 for an asset group of 1 (one) and \$3,000 for an asset group of 2 (two).

For FIP, SDA, LIF, G2U, G2C, SSI-Related MA AMP and FAP, an asset must be available to be countable. BEM 400. "Available" means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400.

In the instant matter, both Claimant and the Department experienced some confusion about the reasons for Claimant's request for hearing received on November 9, 2012. Claimant requested a hearing based on a November 7, 2012 Notice of Case Action (DHS-1605) which closed Claimant's MA-AD Care case due to excess assets. Subsequently, Claimant reapplied for MA and the Medicare Savings Program, which was eventually denied by the Department on November 16, 2012. This Administrative Law Judge has proper jurisdiction to hear Claimant's request for hearing based on the November 7, 2012. Because Claimant did not properly request a hearing based on the November 16, 2012, this Administrative Law Judge will not address the issues related to this notice of case action.

With regard to the Department's November 7, 2012 closure of the MA-Ad Care case due to excess assets, the parties did not dispute the underlying facts. The evidence shows that during the relevant time period, Claimant's spouse (Cecilia Lahoud) had a checking account with [REDACTED] in the amount of \$ [REDACTED]. These assets were both countable and available to Claimant. Claimant's AHR, during the hearing, did not dispute these facts, but asked that the Administrative Law Judge make an exception for them regarding the Department's asset test policy.

This Administrative Law Judge does not have the authority to create an exception for Claimant. In the instant matter, both the facts and the policy are clear that Claimant was not eligible for MA-Ad Care at the time due to excess assets.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess assets, the Department properly closed Claimant's MA Ad Care case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's MA decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 19, 2013

Date Mailed: April 22, 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.

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.

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

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** 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

201312695/CAP

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

CAP/aca

cc:

