

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-14349  
Issue No.: 2013  
Case No.: [REDACTED]  
Hearing Date: April 17, 2013  
County: St. Joseph

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**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 Attorney [REDACTED]. Participants on behalf of Department of Human Services (Department) included Assistance Payment Supervisor [REDACTED] and General Services Program Manager [REDACTED].

**ISSUE**

Did the Department properly deny Claimant's application for Medicaid-Long Term Care due to excess assets?

**FINDINGS OF FACT**

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

- 1) On February 5, 2010, Claimant went into long term care.
- 2) On March 24, 2010, Claimant applied for Medicaid-Long Term Care.
- 3) On November 1, 2010, the department determined that Claimant was over assets and his MA-LTC application was denied.
- 4) On April 26, 2011, an Administrative Law hearing was held based on Claimant contesting the department's denial based on excess assets.
- 5) On August 30, 2011, DHS received the Decision from the Administrative Law hearing with an order to redetermine eligibility.

- 6) On May 17, 2012, DHS issued an Excess Asset Notice informing Claimant that he was not eligible for Medicaid for the month of 3/2010 because he was over assets. (Dept Ex. A, p 14).
- 7) On August 13, 2012, Claimant's authorized representative appealed the denial.

### **CONCLUSIONS OF LAW**

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance is denied. MAC R 400.903(1).

The MA program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The department determines a client's eligibility for MA benefits based on, among other things, the client's assets. BEM 400. Department policy further provides that a couple's (his, her, their) total countable assets are determined as of the first day of the first continuous period of care that began on or after September 30, 1989. BEM 402.

In this case, Claimant applied for MA benefits on March 24, 2010. However, the first day on which Claimant began continuous long term nursing care was February 5, 2010,

At the April 17, 2013 hearing in this matter, the department representative testified and provided documentary evidence establishing that the department did not include the [REDACTED] in the Initial Asset Assessment (IAA) because per the quit claim deed records, the [REDACTED] was still owned by Claimant's son on February 5, 2010, the baseline date. (See Dept Ex. p 6; Claimant Ex. B) Indeed, the [REDACTED] was not transferred to Claimant's spouse until February 19, 2010, after the IAA date, and therefore the department determined the property was not a countable asset under BEM 402. (See Dept Ex. p 6).

Claimant's attorney argued on Claimant's behalf that the [REDACTED] was only transferred to Claimant's son in 2008 for estate planning purposes. Claimant's attorney further asserted that the [REDACTED] should have been included in the IAA because it was always Claimant's intent that the [REDACTED] remained their

asset, and Claimant treated it as his asset even after it was in the son's name. (Claimant Ex. B).

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the April 17, 2013 hearing, the department properly concluded that the [REDACTED] was not a countable asset as of the date on which Claimant began continuous care.

Once the Initial Asset Assessment is completed, the department completes a Medicaid determination based on Claimant's Medicaid application dated 3/24/10. The first step is to determine the assets at the time of application. After the assets are determined, then income, health insurance expenses and shelter expense are established for the client and his spouse.

In this case, the [REDACTED] was an asset of the Claimant and his spouse on the date of application because the lot was deeded on 2/19/10. The assets are as follows:

- 1) Homestead-per BEM 400, excluded, countable value \$0.00.
- 2) Certificate of Deposit, cashed in on 3/22/10, therefore the clients no longer owned the asset, countable value \$0.00.
- 3) Certificate of Deposit, owned as of the Medicaid application, countable value [REDACTED].
- 4) 2002 Chevrolet Impala-per BEM 400 excluded, countable value \$0.00.
- 5) Savings account, balance on 3/24/10 was [REDACTED].
- 6) Checking account, lowest asset balance on Medicaid application date was [REDACTED].
- 7) Irrevocable Funeral Contract for Claimant created on 2/9/10 is an excluded asset, countable value \$0.00, per BEM 400.
- 8) Irrevocable Funeral Contract for Claimant's wife created on 2/9/10 is an excluded asset, countable value \$0.00, per BEM 400.
- 9) [REDACTED] quit claim to Claimant's wife on 2/19/10 and is not connected to the homestead, rented out for income or income-producing. Per BEM 400, this makes it a countable asset. Its fair market value was [REDACTED] and its countable value as of 3/24/10 was [REDACTED].
- 10) IRA cashed in on 1/15/10, therefore it was not countable in the IAA or countable on the Medicaid application date.

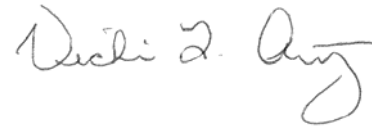
11) Claimant and his spouse's trust. Homestead transferred out of trust on 2/19/10 and no other items in the trust. The trust had a countable asset of \$0.00 for the Medicaid determination.

The formula for asset eligibility is the value of the couple's (his, her, their) countable assets for the month being tested MINUS the protected spousal amount EQUALS the client's countable assets. Total countable assets as of 3/24/10 was \$ [REDACTED] (Protected Spousal Amount) = \$ [REDACTED] This is over the \$2,000 asset limit.

Therefore, the department was correct when it found that Claimant was not eligible for Medicaid based on excess assets.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department acted properly when it denied Claimant's Medicaid application for excess assets. Accordingly, the Department's MA decision is AFFIRMED.



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Vicki L. Armstrong  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 9, 2013

Date Mailed: \_\_\_\_\_

**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 **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.

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

VLA/nr

cc:

