

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201343328
Issue No: 2014
Case No: [REDACTED]
Hearing Date: August 14, 2013
Gratiot County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's guardian's request for a hearing received by the Department of Human Services (department) on April 24, 2013. After due notice, a telephone hearing was held on August 14, 2013 at which Claimant's daughter, [REDACTED] also Claimant's guardian and authorized representative, appeared and provided testimony on Claimant's behalf. [REDACTED] from the [REDACTED] Rehabilitation Center, and [REDACTED] from [REDACTED] also appeared on Claimant's behalf. The department was represented by Cheryl Liberty, a lead worker with the department's Gratiot County office.

ISSUE

Whether the department properly determined Claimant's Medical Assistance (MA) eligibility?

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 March 15, 2013, Claimant's guardian, [REDACTED] submitted an application on Claimant's behalf for retroactive MA, seeking retroactive medical assistance coverage for Claimant for December 2012, January 2013, and February 2013. (Department Exhibit 2)
2. On April 11, 2013, the department mailed [REDACTED] a Notice of Case Action (DHS 1605), informing her that Claimant's retroactive MA application for the months of December 2012, January 2013, and February 2013 was denied because Claimant's assets exceeded the \$2,000 asset limit for the

MA program under department policy, BEM 400. (Department Exhibits 3-10)

3. On April 24, 2013, Ms. [REDACTED] submitted a hearing request protesting the Department's denial of Claimant's March 15, 2013 retroactive MA application. In doing so, Ms. [REDACTED] also challenged the department's September 2012 closure of Claimant's MA case, claiming that the department mailed the redetermination paperwork to the incorrect address.¹
4. On April 29, 2013, the department mailed Ms. [REDACTED] a Notice of Case Action (DHS 1605), informing her that, following the department's corrected calculation of the cash surrender value of Claimant's life insurance policy, Claimant was approved for retroactive MA coverage for the month of February 2013.

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. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code 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. Effective October 1, 2012, the MA asset limit for SSI-related Medicaid for a group size of one is \$2,000. BEM 400.

¹ To the extent that Claimant's April 24, 2013 hearing request challenges a negative action taken by the department in September 2012, it is untimely because a hearing request which protests a denial, reduction or termination of benefits must be filed within 90 days of the mailing of the negative action notice. MAC R 400.902; MAC R 400.903; MAC R 400.904. Accordingly, this Administrative Law Judge lacks jurisdiction to address and resolve this portion of Claimant's April 24, 2013 hearing request.

Department policy defines "assets" to mean cash, investments, retirement plans, trusts, any other personal property and real property. BEM 400, p. 1. Real property is land and objects affixed to the land such as buildings, trees and fences. Personal property is any item subject to ownership that is not real property, such as currency, savings accounts and vehicles. BEM 400, p. 1. A life insurance policy is an asset only if it can generate a cash value or a cash surrender value, which is the amount of money the policy owner may obtain by canceling the policy before it matures or before the insured dies. BEM 400, p. 33.

In this case, Claimant's guardian, [REDACTED] [REDACTED] challenges the department's denial of Claimant's March 15, 2013 retroactive MA application for the months of December 2012 and January 2013.

At the August 14, 2013 hearing, the department's representative, [REDACTED] [REDACTED] testified and presented supporting documentation establishing that [REDACTED] assets for the months of December 2012 and January 2013 exceeded the \$2,000.00 asset limit for the Medicaid program for which Claimant would have been otherwise eligible. Ms. [REDACTED] did not disagree with the department's calculations in this regard.

Accordingly, this Administrative Law Judge finds that, based on the competent, material and substantial evidence presented during the August 14, 2013 hearing, the department properly denied Claimant's March 15, 2013 application for retroactive MA benefits for the months of December 2012 and January 2013 for the reason that Claimant's assets exceed the \$2,000.00 limit for the MA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied Claimant's March 15, 2013 application for retroactive MA benefits for the months of December 2012 and January 2013 for the reason that Claimant's assets exceed the \$2,000.00 limit for the MA program. Accordingly, the department's action in this regard is **UPHELD**.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 22, 2013

Date Mailed: August 23, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS 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.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/hj

CC:

