

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201311121
Issue No.: 2012, 2021
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

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 [REDACTED] from [REDACTED]. Participants on behalf of Claimant included [REDACTED], as authorized hearings representative for the Claimant, and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the 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. The Department closed the Claimant's Medical Assistance (MA) benefits and notified her that the closure was for failure to provide information necessary to determine her continued eligibility.
2. On [REDACTED] the Claimant had life insurance policies with countable values totaling \$ [REDACTED].
3. On [REDACTED] the Department denied the Claimant's application for Medical Assistance (MA) as of [REDACTED], due to excess assets and not for failure to cooperate.

4. On [REDACTED] the Department approved the Claimant for Medical Assistance (MA) as of [REDACTED]
5. The Department received the Claimant's request for a hearing on [REDACTED], protesting the denial of Medical Assistance (MA) benefits from November of [REDACTED] through October of [REDACTED]

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, which is \$2,000 for a Medical Assistance (MA) group of one. A life insurance policy is an asset if it can generate a cash surrender value. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2011).

In this case, the Department closed the Claimant's Medical Assistance (MA) benefits and mistakenly notified her that the closure was for failure to provide information necessary to determine her eligibility. The Claimant provided the required verification documentation in a timely manner and the Department redetermined her eligibility to receive benefits. On [REDACTED], the Department determined that the Claimant had life insurance policies with countable values totaling \$[REDACTED]. On [REDACTED] the Department determined that the Claimant was not eligible to receive Medical Assistance (MA) as of [REDACTED] due to excess assets.

On [REDACTED], the Department sent the Claimant notification that her Medical Assistance (MA) application had been denied as of [REDACTED], and corrected the reason for the denial, which was due to her excess assets. The Department received a timely request for a hearing on [REDACTED] protesting the denial of Medical Assistance (MA) from November [REDACTED], through October [REDACTED]

The Claimant's representative does not dispute that the Claimant's assets exceeded the asset limit before [REDACTED]. The Claimant's representative testified that if the Department had accurately notified the Claimant of the reason Medical Assistance (MA) had been denied sooner, or given her a more thorough explanation of steps that could have been taken to become eligible, then the Claimant would have been able to qualify for Medical Assistance (MA) before [REDACTED]

Department of Human Services Bridges Assistance Manual (BAM) 105 requires the Department to inform clients about available programs, including domestic violence comprehensive services, and their right to apply for these programs. The Department is not expected to provide estate-planning advice, provide funeral-planning advice, or

determine the effect on eligibility of proposed financial arrangements such as a proposed trust.

This Administrative Law Judge finds that the Department was under no obligation to provide the Claimant with financial advice for the purposes of becoming eligible to receive benefits.

Although the Claimant was initially notified incorrectly that her application had been denied, the Claimant has the burden of establishing that she was eligible to receive benefits. In this case, the Claimant was not eligible to receive benefits due to excess assets.

While the Department might have handled the Claimant's case differently without offering financial advice, the Department properly determined the Claimant's eligibility for Medical Assistance (MA) in accordance with policy. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

A client whose countable assets exceed the asset limit is nevertheless asset eligible when an undue hardship exists, but the Department will assume that denying Medical Assistance (MA) will not cause undue hardship unless there is evidence to the contrary.

An undue hardship exists when the client's physician (M.D. or D.O.) states that:

- Necessary medical care is not being provided, and
- The client needs treatment for an emergency condition.

A medical emergency is any condition for which a delay in treatment may result in the person's death or permanent impairment of the person's health. Department of Human Services Bridges Eligibility Manual (BEM) 402.

This Administrative Law Judge finds that the Claimant failed to establish that the denial of Medical Assistance (MA) benefits has caused undue hardship, and this Administrative Law Judge lacks the authority to order the Department to implement an exception to policy. Therefore, based on the evidence and testimony available during the hearing, the Department has established that it properly denied the Claimant's Medical Assistance (MA) for the period of November [REDACTED], through October [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly denied the Claimant's Medical Assistance (MA) application due to excess assets.

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: 03/28/2013

Date Mailed: 03/28/2013

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 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.

201311121/KS

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

cc:

