

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201317424
Issue No: 2006
Case No: [REDACTED]
Hearing Date: May 8, 2013
Genesee County DHS (06)

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 authorized representative's request for a hearing received by the Department of Human Services (department) on December 7, 2012. After due notice, a telephone hearing was held on May 8, 2013. Claimant appeared and provided testimony and Claimant's authorized representative, [REDACTED] with [REDACTED], appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], a medical contact worker with the department's Genesee County office

ISSUE

Whether the department properly denied Claimant's application for Medicaid and Retroactive Medicaid due to 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. On May 2, 2012, Claimant's authorized representative submitted an application for MA and retroactive MA on Claimant's behalf, seeking medical and retroactive medical assistance coverage for Claimant. In the application, it was reported that, on September 1, 2011, Claimant received a one-time payment of RSDI benefits in the amount of \$30,000.00. (Department Exhibit 1)
2. On August 23, 2012, the department mailed Claimant a Verification Checklist (DHS-3503), requesting that Claimant provide verification of the following: (i) bank statements from [REDACTED] and [REDACTED] for February 2012; (ii) a dealer statement for Claimant's 1984 Corvette; and

(iii) a copy of Claimant's life insurance policy indicating whether it has a cash value. This information was due to the department by September 4, 2012. (Department Exhibit 3)

3. The department did not request that Claimant provide verification of his receipt of a one-time payment of RSDI benefits on September 1, 2011 in the amount of \$30,000.00.
4. Claimant timely submitted the requested verifications of his bank statements and vehicles. (Department Exhibits 4, 5)
5. On September 13, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that his MA application was denied because the value of his countable assets is higher than allowed for the MA program and because Claimant failed verify or allow the department to verify necessary information. (Department Exhibits 6, 7)
6. On December 7, 2012, Claimant's authorized representative submitted a hearing request protesting the Department's denial of Claimant's application for Medicaid and Retroactive Medicaid. (Request for a Hearing)

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 Medical Assistance (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 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) and the Program Reference Manual (PRM).

The department determines a client's eligibility for MA benefits based on, among other things, the client's assets. BEM 400. Effective October 1, 2011, the MA asset limit for a group size of one is \$2,000. BEM 400, pp. 4-5.

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.

Department policy further provides that retroactive RSDI and SSA-issued SSI benefits received by a client are excluded for nine calendar months beginning the month after payment is received. BEM 400, p. 16. However, purchases made with such funds, including CDs and other time deposits, shall not be excluded. BEM 400, p. 16. This exclusion applies only to any unspent portion of the retroactive payment from RSDI or SSI. BEM 400, p. 16. Once the money from the retroactive payment has been spent, this exclusion does not apply to the items purchased with the money, even if the nine month period has not expired. BEM 400, p. 16. The money may be commingled with other funds but, if this is done in such a fashion that the retroactive amount can no longer be separately identified, that amount will count toward the resource limit. BEM 400, p. 16.

In order to separate countable and excluded funds that are commingled, the department shall:

- assume that countable funds are withdrawn first, leaving as much of the excluded funds as possible.
- excluded funds withdrawn are **not** excluded if redeposited. The excluded amount can be increased only by deposits of subsequently received excluded payments.
- count any interest paid to the account. BEM 400, p. 16

In this case, in his May 2, 2012 application for Medicaid and Retroactive Medicaid benefits, Claimant reported having received a one-time payment of RSDI benefits in the amount of \$30,000.00 on September 1, 2011. And, while the department subsequently obtained verification from Claimant of bank account balances at [REDACTED] and [REDACTED] [REDACTED] in the amounts of \$2,528.26 and \$10,394.61, respectively, the department made no effort to verify or otherwise determine what portion, if any, of these balances constituted excluded funds pursuant to BEM 400 – and, instead, the department concluded that such balances were countable funds and, as such, exceeded the asset limit for the MA program.

At the May 9, 2013 hearing, Claimant testified that, when he received the \$30,000.00 payment of RSDI benefits on September 1, 2011, he deposited \$2,000.00 of the funds in his account with [REDACTED] and he deposited the remaining \$28,000.00 in his account with [REDACTED]. The department’s representative acknowledged that the department did not request verification of Claimant’s receipt of the \$30,000.00 payment of RSDI benefits or any bank statements from Claimant’s bank accounts from

September 2011 onward in order that the department could identify which portion of the funds in these accounts were the retroactive amount and thus excluded from consideration as a countable asset.

Accordingly, the Administrative Law Judge finds that based on the competent, material, and substantial evidence presented during the hearing, the department did not act in accordance with policy when the department denied Claimant's May 2, 2012 application for Medicaid and Retroactive Medicaid on March 12, 2012 due to excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record, decides that the department did not act in accordance with policy when the department denied Claimant's May 2, 2012 application for Medicaid and Retroactive Medicaid due to excess assets. The department is therefore **ORDERED** to immediately reinstate and reprocess Claimant's May 2, 2012 application for Medicaid and Retroactive Medicaid, including but not limited to the gathering of any needed verifications of the disposition and excludability of the funds from Claimant's September 1, 2011 RSDI payment, and issue supplement checks for any months Claimant did not receive the correct amount of benefits if he was otherwise entitled to them.

It is SO ORDERED.

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

Date Signed: May 10, 2013

Date Mailed: May 13, 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 this 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 errors, or other obvious errors in the hearing decision that effect 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/aca

cc:

