

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-19733
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: April 22, 2013
County: Wayne (82-82)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]

[REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application on the basis that the value of her assets exceeded the MA asset limit?

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 August 29, 2012, Claimant applied for MA.
2. Because Claimant's AHR established that Claimant had submitted an MA application with the Department in February 2012 that the Department had failed to process, the Department processed the August 29, 2012, application based on information from February 2012 and intended to provide retroactive MA coverage to Claimant from February 2012 ongoing if it established that Claimant was eligible.

3. On November 27, 2012, the Department sent Claimant a Notice of Case Action informing her that her MA application was denied because the value of her countable assets exceeded the limit under the MA program. Exhibit 3.
4. On December 19, 2012, Claimant's AHR filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Additionally, Claimant applied for MA on August 29, 2012. Because Claimant's AHR established that Claimant had filed an application in February 2012 that had not been processed, the Department agreed to process the August 29, 2012, MA application as if filed in February 2012, with MA coverage to Claimant from February 2012 ongoing if Claimant established eligibility. On November 27, 2012, the Department denied Claimant's application on the basis that Claimant's assets exceeded the asset limit under the MA program. At issue was the value of a life insurance policy.

The asset limit for SSI-related MA for an asset group of one (Claimant) is \$2,000. BEM 400 (February 1, 2012, and July 1, 2012), p. 5; BEM 211 (January 1, 2012), pp. 5-6. 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, p. 4.

For SSI-related MA, which is available to individuals who are aged, disabled or blind, a life insurance policy is an asset if it can generate a cash surrender value (CSV), with the policy's value for asset purposes being its CSV. BEM 400, p 32. However, some or all the value of life insurance to pay for funeral expenses might be excluded in calculating a client's asset value if the client directs that the proceeds of a life insurance policy be used for his funeral **and** has **irrevocably** transferred ownership of the policy (even if the person retains the right to change funeral providers, items or services). Under these circumstances, the Department does **not** (i) count the CSV of the policy as an asset effective the month of transfer, (ii) count the funeral contract as an asset, (iii) apply policy in BEM 401, Trusts – MA, or (iv) consider the ownership transfer as divestment when all of conditions provided in BEM 400 are satisfied. BEM 400, pp 32, 39-40. To verify an irrevocable funeral contract, the client must provide a copy of DHS-8A

(Irrevocable Funeral Contract Certification), certifying that the contract is irrevocable. BEM 400, p 44.

In this case, Claimant's AHR testified that Claimant purchased the life insurance policy at issue in order to fund an August 2000 funeral contract and presented a copy of an August 17, 2000, "Funeral Purchase Contract" showing a \$5,145.70 cost with a handwritten notation under the "terms" provision indicating "insurance/pre-arrangement." The agreement was signed by Claimant but not the funeral home. Exhibit B. Claimant had a life insurance policy with a cash value of \$7,218.76 as of February 17, 2012, that the AHR contended was purchased to fund the funeral contract. Exhibit 2. However, the only irrevocable funeral contract certification (DHS-8A) entered into evidence was dated October 11, 2012, and showed the assignment of \$3,000 of the death benefit from the policy for payment of funeral services for Claimant. Exhibit C. The Department credibly testified that it had not received a copy of this certification prior to the hearing.

Because the irrevocable funeral contract certification is dated October 11, 2012, the CVS of the policy would not be excluded as an asset for purposes of determining MA eligibility until that month. Thus, the Department acted in accordance with Department policy when it considered the CVS of the policy as an asset to Claimant as of February 2012, the period that Claimant's application was being processed. Exhibit 2. Because the CVS of the policy was \$7,218.76 as of February 17, 2012, and this exceeded the \$2,000 asset limit, the Department acted in accordance with Department policy when it denied Claimant's MA application 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, finds that the Department acted in accordance with Department policy when it denied Claimant's August 29, 2012, MA application due to excess assets. Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 1, 2013

Date Mailed: May 2, 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.

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

ACE/pf

cc:

