

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-44613
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: July 10, 2013
County: Oakland DHS (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 10, 2013, from Detroit, Michigan. Participants included [REDACTED] Claimant's son, as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Medical Assistance (MA) eligibility 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. Claimant was an ongoing Medicaid recipient.
2. Claimant was a married individual.
3. In 1/2013, Claimant became a resident of a long-term care (LTC) facility.
4. Claimant's spouse was also a resident of an LTC facility.
5. Claimant was the owner of whole life insurance with a cash value of [REDACTED].

6. On 4/23/13, DHS mailed Claimant a Notice of Case Action informing Claimant of MA benefit termination, effective 6/2013, due to excess assets.
7. On 4/29/13, Claimant's AHR requested a hearing to dispute the MA benefit termination.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant's AHR requested a hearing to dispute a termination of Medicaid eligibility. It was not disputed that the termination was due to excess assets.

It was not disputed that Claimant, as an aged and/or disabled individual, was potentially eligible only for SSI-related MA benefits. The SSI-related MA category asset limit is \$2,000 for a benefit group of one. BEM 400 (1/2013), p. 5. For MA benefits, 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. *Id.*, p. 5.


It was not disputed that Claimant was the owner of a whole life insurance policy. It was not disputed that the cash surrender value of the life insurance policy was \$22,298.67, substantially more than the asset limit for SSI-related MA benefits. It is found that DHS properly terminated Claimant's MA benefit eligibility due to excess assets.

Claimant's AHR's hearing request noted that Claimant received Medicaid for a lengthy time and that DHS was aware of the life insurance policy during her period of Medicaid eligibility. Thus, Claimant's AHR was understandably perplexed why DHS did not end Claimant's Medicaid eligibility sooner. DHS does not have to justify a benefit determination in comparison with a past benefit decision. Nevertheless, DHS explained that Claimant's past Medicaid eligibility exempted the life insurance because Claimant was considered a community spouse until the time she required long-term care.

It should also be noted that Claimant is not permanently banned from MA eligibility. Claimant's AHR testified that the life insurance policy was cashed and spent on irrevocable funeral contracts for Claimant and her spouse. Claimant's AHR also testified that he reapplied for MA benefits. Thus, it is possible that Claimant's MA eligibility will suffer no lapse in Medicaid coverage after DHS processes the recently submitted application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA benefit eligibility, effective 6/2013. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/29/2013

Date Mailed: 7/29/2013

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 affect the substantial rights of the claimant,
 - 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

CG/hw

cc:



