

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20148958
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: January 16, 2014
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's guardian and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA) benefits for [REDACTED] 2013 to [REDACTED] 2013?

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 [REDACTED] [REDACTED] 2012 and [REDACTED] [REDACTED] 2013, Claimant applied for MA, but the Department denied the applications for excess assets.
2. On [REDACTED] [REDACTED] 2013, Claimant applied for MA for a third time, with a request for retroactive MA coverage to [REDACTED] 2013.
3. On [REDACTED] [REDACTED] 2013, the Department sent Claimant a Notice of Case Action approving her MA application for [REDACTED] [REDACTED] 2013, ongoing subject to a monthly \$905 deductible.

4. On [REDACTED] [REDACTED] 2013, Claimant's AHR filed a request for hearing contending that Claimant was entitled to MA coverage for periods prior to [REDACTED] [REDACTED] 2013.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, as a preliminary matter, it is noted that, because the Notices of Case Action denying Claimant's [REDACTED] 2012 and [REDACTED] 2013 MA applications were sent more than 90 days prior to the AHR's [REDACTED] [REDACTED] 2013, request for hearing, the AHR was advised that her hearing request concerning those Department actions was untimely and, consequently, would not be reviewed at the hearing. See BAM 600 (July 2013), p. 5 (requiring that requests for hearing be filed within 90 days of the date of any relevant notice of case action from the Department). The AHR's [REDACTED] [REDACTED] 2013 hearing request was timely filed within 90 days of the [REDACTED] [REDACTED] 2013 Notice of Case Action. Because the [REDACTED] [REDACTED] 2013, Notice of Case Action approved Claimant's MA application for [REDACTED] [REDACTED] 2013, ongoing but also denied her MA eligibility for the requested retroactive months of [REDACTED] 2013 through [REDACTED] 2013 and the [REDACTED] 2013 application month, the issue at the hearing was limited to the denial of MA coverage for [REDACTED] 2013 through [REDACTED] 2013.

The Department explained at the hearing that Claimant's MA coverage for [REDACTED] 2013 through [REDACTED] 2013 was denied because Claimant was the owner of a life insurance policy until [REDACTED] [REDACTED] 2013 and the value of her life insurance exceeded the MA asset limit.

The asset limit for SSI-related MA, which is available to aged, disabled or blind individuals, for an asset group of one (Claimant) is \$2000. BEM 400 (July 2013), p. 7; BEM 211 (July 2013), pp. 6-7; BEM 105 (July 2013), p. 1. 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. 6.

A life insurance policy is an asset of the policy owner. BEM 400, p. 40. For SSI-related MA, a life insurance policy is a countable asset if it can generate a cash surrender value (CSV), with the policy's value being its CSV, unless the value of the insurance policy is excluded under Department policy. BEM 400, pp. 40-41. An exclusion is available if (i)

the insurance is for funeral and meets the definition for a funeral plan policy, (ii) the face value of all policies a policy owner has for the same insured is \$1,500 or less, (iii) burial insurance, (iv) the policy is an endowment policy. BEM 400, pp. 41-42.

In this case, Claimant owned a life insurance policy with a CSV as of [REDACTED] [REDACTED] 2012 of \$2,438.91. There was no evidence that the policy met any of the exclusions preventing it from being considered Claimant's countable asset. Claimant continued to own this policy until it was transferred by the life insurance company to the AHR with an [REDACTED] [REDACTED] 2013, effective date.

Because (i) Claimant continued to own the policy until [REDACTED] [REDACTED] 2013, when it was transferred to the AHR, (ii) the policy was a countable asset, and (iii) the CSV of the policy was over \$2,000, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's MA application for [REDACTED] 2013 through [REDACTED] 2013.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: January 23, 2014

Date Mailed: January 23, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

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- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/tif

cc:

