

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

IN THE MATTER OF:



Reg. No.: 201420869
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: March 26, 2014
County: Wayne (19)

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 March 26, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payment Specialist.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case?

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 recipient of full-coverage MA under the Ad-Care program.
2. In connection with a November 2013 MA redetermination, Claimant submitted documentation showing that she received monthly Retirement, Survivors and Disability Income (RSDI) benefits of \$719 based on her disability and monthly RSDI benefits of \$1146 for widow's death benefits.
3. On December 11, 2013, the Department sent Claimant a Notice of Case Action closing her MA eligibility under the Ad-Care program because she was income ineligible.

4. On December 26, 2013, Claimant 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), 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, in connection with an MA redetermination, Claimant informed the Department that she received monthly RSDI widow benefits totaling \$1146 and monthly RSDI benefits for her own disability totaling \$719. Because Claimant's total monthly countable RSDI income exceeded \$958, the income limit for Ad-Care eligibility for an unmarried client, the Department acted in accordance with Department policy when it concluded that Claimant was no longer eligible for Ad-Care MA coverage because of excess income. BEM 503 (January 2014), pp. 9-10; 28-29; BEM 163 (July 2013), p. 2; RFT 242.

After the Department sent Claimant the December 11, 2103 Notice of Case Action notifying her of the closure of her MA case under the Ad-Care program effective January 1, 2014, the Department sent her a Verification Checklist (VCL) requesting verification of her checking account for purposes of determining her ongoing eligibility under *other* MA programs. On December 30, 2013, the Department sent Claimant a Notice of Case Action denying her eligibility for under any MA category based on excess assets.

Asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, disabled or blind. BEM 400 (December 2013), p. 1; BEM 105 (January 2014), p. 1;. For SSI-related MA, the asset limit is \$2000 for an unmarried individual. BEM 400, p. 7; BEM 211 (January 2014), p. 4. At the hearing, the Department testified that it concluded that the value of Claimant's assets exceeded the applicable MA limit based on the value of her checking account.

Checking and savings accounts are assets. BEM 400, p. 14. The value of an account is the amount of cash in the account. BEM 400, p. 16. Department policy provides that 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.

In this case, Claimant provided a checking account statement covering the period between October 25, 2013 and November 22, 2013. The Department testified that, in determining Claimant's asset eligibility, it considered the lowest balance during that period, which was \$7,693.41. However, funds that are treated as income by a program are not treated as an asset for the same month for the same program. BEM 400, p. 20. Claimant's statement showed that she had a deposit of \$1,146 of RSDI income into the account during the statement period. Because this deposit is treated as income under the MA program, the Department should have excluded this amount from the \$7693.41 balance in calculating the asset value of the account. Doing so would decrease the value of the account to \$6,547.41. However, because \$6,547.41 exceeds the \$2000 asset limit, the Department acted in accordance with Department policy when it closed Claimant's MA case for excess assets. Although there were additional days in November 2013 not covered in the statement Claimant provided, Claimant conceded on the record that her additional expenses would not have reduced her balance to \$2,000 or less.

To explain the high balance of her checking account, Claimant testified that she was concerned about having sufficient funds for her funeral expenses. For SSI-Related MA, money set aside for burial expenses may be excludable. BEM 400, p. 22. In order to qualify for exclusion for burial expenses, the asset must be clearly designated to apply for funeral expenses through, for example, the title on a bank account, a prepaid funeral contract, or on a signed statement from the client. BEM 400, p. 45. The designation must include the following information: (i) value and owner of the asset; (ii) whose burial the fund is for; (iii) the date the funds were set aside for the person's burial; and (iv) the form in which the asset is held (for example, bank account or life insurance). BEM 400, pp. 45-46. Burial funds may not be commingled with any assets except burial space assets and are limited to \$1500 per qualified group member. BEM 400, p. 46.

In this case, Claimant did not provide any signed document to the Department identifying any assets, including her checking account, for funeral expenses. Furthermore, the checking account that Claimant testified was intended to fund her funeral expenses also contained funds for other purposes. As such, the funds are commingled and do not qualify for an exclusion for burial expenses under policy. Accordingly, Claimant could not rely on the burial expense exclusion to decrease the value of her assets.

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 closed Claimant's MA eligibility for excess assets.

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: April 3, 2014

Date Mailed: April 3, 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;
- 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/tlf

cc:

