

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

IN THE MATTER OF:

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Reg. No.: 2014-30958
Issue No.: 2001
Case No.: ██████████
Hearing Date: April 17, 2014
County: Wayne

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 April 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████, hearing representative with L&S Associates, Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████, Medical Contact Worker.

ISSUE

Did the Department properly deny Claimant Medical Assistance (MA) coverage for January 2012 and March 2012?

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 January 30, 2012, Claimant's AHR applied for MA benefits on Claimant's behalf, with a request for retroactive coverage to October 2011.
2. On February 10, 2012, the Department sent Claimant a Verification Checklist (VCL) requesting, in part, verification of Claimant's life insurance policy and savings account bank statements for October 2011 to the VCL date by February 21, 2012.

3. On February 29, 2012, the Department sent Claimant a Notice of Case Action denying the application under the Freedom to Work (FTW) MA program on the basis that the value of his assets exceeded the asset limit.
4. The Department continued to process Claimant's application for assessment of disability.
5. The Medical Review Team (MRT) concluded that Claimant was not disabled, and the Department denied the January 30, 2012, application.
6. Claimant's AHR appealed the denial.
7. Following a September 24, 2012, hearing, the presiding administrative law judge (ALJ) issued a Hearing Decision on November 21, 2012, finding that Claimant was disabled and reversing the Department.
8. The ALJ ordered the Department to reprocess the January 30, 2012, application, retroactive to October 2011, to determine if all other non-medical eligibility criteria were satisfied.
9. An Administrative Hearing Order Certification the Department completed after the original November 21, 2012, Hearing Decision shows that Claimant was required to submit an asset verification by December 6, 2012.
10. On December 7, 2012, the Department sent Claimant a Notice of Case Action notifying him that he was approved for MA under the FTW program for October 1, 2011, to December 31, 2011, and for November 1, 2012, ongoing.
11. On December 5, 2013, in response to a Hearing Decision finding that the Department had failed to notify the AHR of the December 7, 2012 denial, the Department sent the AHR an Application Eligibility Notice indicating that Claimant's January 6, 2012, application was denied because the value of his life insurance exceeded the asset limit.
12. On February 24, 2014, the AHR filed a request for hearing disputing the Department's action.

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, while the record includes a February 29, 2012, Notice of Case Action denying Claimant's MA application under the FTW program for excess assets, there was no evidence that this Notice of Case Action was ever sent to the AHR. In fact, the Department continued to process Claimant's application and the record shows that the application was ultimately denied because MRT found Claimant not disabled. Because there was no evidence that the February 29, 2012, Notice of Case Action was sent to the AHR and the Department's action in continuing to process the application was contrary to the application being denied, it is found that the February 29, 2012, Notice does not impact the current proceedings.

The Department established that it denied Claimant MA eligibility for January 2012 ongoing because it concluded that the value of his life insurance policies exceeded the applicable asset limit. The evidence at the hearing established that Claimant was married at the time of application. The asset limit for SSI-related MA, which is available to aged, disabled or blind individuals, for an asset group size of two (Claimant and his wife) is \$3,000. BEM 400 (January 2012), p. 5; BEM 211 (January 2012), pp. 5-6; BEM 105 (October 2010), p. 1. However, asset eligibility under the FTW MA program is \$75,000. BEM 400, p. 5. 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, a life insurance policy is a countable asset of the policy owner if it can generate a cash surrender value (CSV) (also referred to as cash value). BEM 400, pp. 32-33. The CSV is the amount of money the policy owner can get by canceling the policy before it matures or before the insured dies; it is **not** the same as the face value of the policy. BEM 400, pp. 32, 33. For MA purposes, a life insurance policy's value is its CSV, unless the value of the insurance policy is excluded under Department policy because (i) the policy is for funeral expenses and meets the definition for a funeral plan policy, or (ii) the face value of all policies a policy owner has for the same insured is \$1,500 or less. BEM 400, pp. 33-34.

Although the Department testified that it denied Claimant MA coverage for January 2012 ongoing because the value of the two life insurance policies at issue exceeded the asset limit, the Department did not present any evidence at the hearing concerning its calculation of the value of the policy other than the face value of the policies. The AHR presented evidence showing that one policy had lapsed on March 19, 2004, and had no CSV, and the other policy at issue had a cash value as of March 5, 2012, of \$345.51. Thus, the countable value of the life insurance policies at issue did not exceed the \$75,000 asset limit for FTW MA coverage or the \$3,000 asset limit for all other SSI-related MA programs. As such, the Department did not act in accordance with Department policy when it concluded that Claimant was not asset-eligible for MA coverage for January 2012 and March 2012.

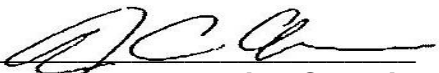
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant MA coverage for January 2012 and March 2012.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's January 2012 MA application and reprocess to determine non-medical eligibility;
2. Provide Claimant with MA coverage he is eligible to receive for January 2012 ongoing; and
3. Notify Claimant and the AHR in writing of its decision.


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

Date Signed: April 30, 2014

Date Mailed: April 30, 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/pf

cc:

[Redacted]