

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005534
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: October 8, 2014
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on October 8, 2014 from Madison Heights, Michigan. Participants included [REDACTED], Claimant's legal guardian and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied 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 MA recipient.
2. Claimant was an ongoing nursing home resident.
3. Through the month of 10/2012, Claimant owned various life insurance policies which totaled more than \$2,000.
4. On an unspecified date, DHS denied Claimant's Medicaid eligibility for the months of 8/2012-10/2012 due to excess Claimant assets.

5. On [REDACTED], Claimant's AHR requested a hearing to dispute the failure by DHS to pay for Claimant's nursing home costs from 8/2012-10/2012.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant's AHR requested a hearing on [REDACTED] to dispute Claimant's Medicaid eligibility from 8/2012-10/2012. There was evidence that Claimant's AHR failed to timely request a hearing. For purposes of this decision, Claimant's AHR's hearing request will be considered timely.

It was not disputed that DHS denied Claimant's Medicaid eligibility due to excess assets. It was not disputed that Claimant was eligible for Medicaid based on disability. Disability based MA is an SSI-related category.

It was not disputed that Claimant's group size was one. The asset limit for an SSI-related MA group size of one is \$2,000. BEM 400 (7/2012), p. 5.

It was not disputed that Claimant owned various life insurances as of 8/2012. A life insurance policy is an asset if it can generate a cash surrender value (CSV). *Id.*, p. 31. A policy is the policy owner's asset. *Id.* DHS provided statements of Claimant's various life insurance policy CSVs.

DHS presented a letter (Exhibit 1) dated [REDACTED] from a life insurance company. The letter stated that Claimant was an insured individual for a life insurance policy with a CSV of \$1,760.38. DHS presented a Policy/Contract Information (Exhibit 4) from the same life insurance company. The contract, signed by Claimant's guardian, noted a transfer of life insurance policy from Claimant to a funeral home. Claimant's guardian's signature was dated [REDACTED].

DHS presented three letters from a second insurance company (Exhibits 5-7). A letter dated [REDACTED] stated that Claimant owned a policy with a cash value of \$929.45. A letter dated [REDACTED] stated that Claimant was the owner of a second policy with a cash value of \$1,130.01. A letter dated [REDACTED] stated that a funeral home was the owner of the policies previously owned by Claimant.

A letter (Exhibit 8) dated [REDACTED] from a third insurance company was presented. The letter stated that Claimant was the owner of a policy with a cash value of \$1,334.70. A letter (Exhibit 9) from the same insurance company dated 1/23/13 stated that a funeral home was the primary beneficiary of Claimant's insurance policy.

Two letters from a fourth insurance company (Exhibits 10 and 12) were presented. The letters were both dated [REDACTED]. The letters verified that Claimant owned two insurance policies, with Claimant's guardian as the primary beneficiary. The combined CSV of the policies was \$1,558.33. Two insurance policy transfer documents (Exhibits 11 and 13) dated [REDACTED] and [REDACTED] were also respectively submitted. The documents verified a transfer of life insurance to a funeral home.

At minimum, DHS verified that Claimant did not transfer three insurance policies with a combined CSV of \$3,318.71 to a funeral home until 11/2012. The evidence was compelling evidence that Claimant exceeded the Medicaid asset limit through 10/2012.

In response to the DHS evidence, Claimant's AHR presented an Irrevocable Funeral Contract Certification (Exhibit A1). The document was signed by Claimant's guardian and a funeral home on [REDACTED]. The contract noted that the funeral home would receive Claimant's life insurance policy proceeds in exchange for the \$9,000 cost of Claimant's eventual funeral. Claimant's guardian contended that this documentation verified that Claimant did not exceed the asset limit beginning the month of 8/2012.

Funds in an irrevocable prepaid funeral contract are unavailable and thus are not counted. *Id.*, p. 38. Funds in a Michigan contract (DHS-8A, Irrevocable Funeral Contract Certification) certified irrevocable are excluded. *Id.*

Claimant's presented funeral contract was not certified by DHS (see Exhibit A1). DHS policy tends to shed light as to why the contract was not certified.

A funeral plan funded with life insurance is not a prepaid funeral contract per BAM 805. *Id.*, p. 38. A similar DHS policy states that 8As (i.e. Irrevocable Funeral Contract Certification forms) cannot be used to certify a life insurance funded funeral as irrevocable. BEM 805 (7/2012), p. 2. Presumably, DHS does not recognize such contracts as irrevocable because a policy holder has availability to the life insurance proceeds as the owner of the policy despite what a funeral contract may state.

Claimant was given an additional 5 days to present documentation to support that the irrevocable funeral contract should be recognized as an irrevocable transfer of life insurance assets.

An Irrevocable Assignment of Insurance or Other Death Benefits (Exhibit B1) was presented. Claimant's AHR signed the document on [REDACTED]. Though the document referenced a funeral home contact dated [REDACTED], the document was highly suggestive

that the irrevocable assignment of assets did not occur until Claimant's AHR's signature date. Claimant's second document (Exhibit B2) mirrored Exhibit 1 and did not alter the analysis.

Based on the presented evidence, it is found that Claimant had assets exceeding \$2,000 in assets for the benefit months of 8/2012-10/2012. Accordingly, the DHS denial of Medicaid to Claimant for the months of 8/2012-10/2012 was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's Medicaid eligibility for the months of 8/2012-10/2012 due to excess assets. The actions taken by DHS are **AFFIRMED**.



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

Date Signed: **10/30/2014**

Date Mailed: **10/30/2014**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

