

**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.: 14-011959
Issue No.: 2001
Case No.: ██████████
Hearing Date: December 4, 2014
County: WAYNE-DISTRICT 82
(ADULT MEDICAL)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR)/son/guardian, ██████████ ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) application effective April 1, 2014?

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 April 29, 2014, Claimant's AHR filed a MA application (patient of nursing facility) on behalf of the Claimant. See Exhibit 1, pp. 9-15.
2. In the application, the AHR indicated no assets other than Claimant's bank account ending in -2720 and with an account balance of \$1,444.83. See Exhibit 1, p. 11. Also, the AHR indicated Claimant's only form of income as Social Security benefits. See Exhibit 1, p. 12.

3. On April 29, 2014, the AHR provided to the Department verification of Claimant's Social Security benefits and a verification of deposit account balance dated April 2, 2014, which showed a balance of \$1,444.83. See Exhibit 1, pp. 19 and 23.
4. Upon the Department processing the application, the Department's system showed that Claimant also had pension income, life insurance policy, homestead, and another bank account ending in -6120. See Exhibit 2, p. 1.
5. On an unspecified date, the Department sent Claimant a Verification Checklist (VCL), which requested verification of her whole life insurance policy, pension/retirement, and checking account and it was due back by June 20, 2014. See Exhibit 1, p. 29.
6. On an unspecified date, the Department sent Claimant another VCL, which requested verification of her whole life insurance policy, pension/retirement, and checking account and it was due back by July 3, 2014. See Exhibit 1, p. 30.
7. On July 2, 2014, the AHR provided verification of Claimant's only bank account ending in -2720. See Exhibit 1, pp. 24-26.
8. On July 2, 2014, the AHR provided verification of Claimant's life insurance policy, which is described as follows: (i) whole life insurance policy; (ii) base face amount of \$7,000; (iii) annual statement from May 18, 2013, to May 18, 2014; (iv) guaranteed base cash value of \$4,116; (v) and a net cash value of \$7,816.73. See Exhibit 1, p. 27.
9. On July 28, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that her MA application was denied due to excess assets and failure to comply with the verification requirements. See Exhibit 1, pp. 31-40.
10. On September 12, 2014, Claimant's AHR filed a hearing request, protesting the MA denial. See Exhibit 1, pp. 1-8.

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 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.

Assets must be considered in determining eligibility for FIP, SDA, RCA, G2U, G2C, RMA, SSI-related MA categories, and FAP. BEM 400 (July 2014), p. 1. Asset eligibility is required for G2U, G2C, RMA, and SSI-related MA categories. 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. 6.

For all other Supplemental Security Income (SSI)-related MA categories, the asset limit is \$2,000 for an asset group of one or \$3,000 for an asset group of two. BEM 400, p. 7. This case involves only a group size of one. Also, checking and savings accounts are considered as countable assets as well. See BEM 400, pp. 13-15.

It should be noted that the Department testified it also denied Claimant's application based on a failure to provide proof of her pension income. See Exhibit 1, pp. 31-40. In response, the AHR testified that Claimant is in the process of receiving the pension income; however, the AHR testified that Claimant has yet to receive her pension income. Thus, the AHR testified that is the reason why he did not indicate pension income in the application. Verification policy is located in BAM 130. BAM 130 (July 2014), pp. 8-9. Nevertheless, this Administrative Law Judge (ALJ) will address the Department's main reason of Claimant's MA denial based on excess assets.

The Department argued that Claimant's bank account balance of \$1,444.83 and the life insurance face value of \$7,000 with a cash surrender value of \$7,816.73 caused Claimant to be over the allowable asset limit of \$2,000.00.

At the hearing, the AHR did not dispute the balance the Department used for the bank account ending in -2720. However, the AHR did dispute the Department using the life insurance policy in the asset calculation as this ultimately placed her over the asset limit.

On July 2, 2014, the AHR provided verification of Claimant's life insurance policy, which is described as follows: (i) whole life insurance policy; (ii) base face amount of \$7,000; (iii) annual statement from May 18, 2013, to May 18, 2014; (iv) guaranteed base cash value of \$4,116; (iv) and a net cash value of \$7,816.73. See Exhibit 1, p. 27. The AHR did not dispute any of the figures above. However, the AHR testified that he did not know that his mother's (Claimant) life insurance policy could be a cash surrender. Instead, the AHR testified he thought the life insurance policy was only a death benefit and therefore, he did not include it in the application. Ultimately, the AHR testified that he did cash surrender the life insurance policy on September 19, 2014. See Exhibit A, p. 1.

For SSI-Related MA only, a life insurance policy is a contract between the policy owner and the company that provides the insurance. BEM 400, p. 40. The company agrees to pay money to a designated beneficiary upon the death of the insured. BEM 400, p.

40. Pure Endowment Life Insurance Contracts pay out on a specific date in the future, not just when the beneficiary dies, and does not meet the definition of life insurance for Medicaid. BEM 400, p. 40.

Cash surrender value (CSV) means the amount of money the policy owner can get by canceling the policy before it matures or before the insured dies. BEM 400, p. 40. It may be titled the cash surrender value or the cash value. BEM 400, p. 40. Face value (FV) means the amount of the basic death benefit contracted for at the time the policy is purchased. BEM 400, p. 40.

For SSI-Related MA only, a life insurance policy is an asset if it can generate a CSV. BEM 400, p. 41. A policy is the policy owner's asset. BEM 400, p. 41.

- A policy's value is its CSV. A policy can generate a CSV, but have a CSV of zero. Such a policy is an asset with zero value.
- Generally, term insurance does not have a CSV. Whole or straight life policies generate a CSV. Policies called graded term or level term may have a CSV and must be verified and counted as an asset.
- The CSV usually increases over time. A loan against a policy reduces its CSV. Pre-death payment of the death benefit might reduce the CSV. See Accelerated Life Insurance Payments in BEM 500 about the payments received.
- CSV and FV are not the same thing.
- Tables included with a life insurance policy are not considered accurate. Verification of the CSV should be either a current notice (within the year) from the company or by contacting the company for the current value.

BEM 400, p. 41.

Additionally, BEM 400 does include life insurance exclusions. Some or all of the value of insurance might be excluded to pay for funeral expenses. BEM 400, p. 41. The Department also excludes the entire cash surrender value when the total face values of all policies a policy owner has for the same insured are \$1,500 or less. BEM 400, p. 42. Exceptions for not counting face value include: (i) term insurance that does not generate a CSV; (ii) burial insurance; and (iii) endowment policies. See BME 400, pp. 42-43.


Based on the foregoing information and evidence, the Department properly denied Claimant's MA application effective April 1, 2014, in accordance with Department policy. It is evident that Claimant's AHR cash surrendered the insurance policy on September 19, 2014; however, this was subsequent to the application and benefit months at issue. See Exhibit A, p. 1. At the time of application, Claimant's assets clearly exceeded the \$2,000 allowable limit. The evidence presented that Claimant had a CSV value of \$7,816.73 with a base face amount of \$7,000 and a bank account balance of \$1,444.83. See Exhibit 1, pp. 23-27. As such, this ALJ concludes that, due to excess assets, the

Department properly denied Claimant's MA application effective April 1, 2014. BEM 400, pp. 1-15 and 40-43.

DECISION AND ORDER

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 properly denied Claimant's MA application effective April 1, 2014.

Accordingly, the Department's MA decision is **AFFIRMED**.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/5/2014**

Date Mailed: **12/5/2014**

EJF / cl

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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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