

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017915
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 03, 2015
County: Genesee-District 6

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, February 3, 2015, from Flint, Michigan. Participants on behalf of Claimant included the Claimant's son and Power of Attorney, [REDACTED] and his wife, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Long Term Care Specialist.

ISSUE

Due to excess assets, did the Department properly deny the Claimant's Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, including the testimony at the hearing, finds as material fact:

1. On October 1, 2014, the Claimant applied for benefits. Department Exhibit 3-8.
2. On October 13, 2014, the Department sent the Claimant a verification checklist that was due on October 23, 2014. Department Exhibit 9-10.
3. On October 22, 2014, the Department received the verification for the Department to make the guaranteed funeral contract an irrevocable funeral contract. Department Exhibit 11.
4. On November 7, 2014, the Department received a corrected copy of the documents with the luncheon removed. Department Exhibit 25-26.
5. On November 12, 2014, the Department Program Manager signed the Irrevocable Funeral Contract Certification, DHS 8A. Department Exhibit 25.

6. Due to excess assets, on November 12, 2014, the Department denied the Claimant's application for MA for October 2014, but approved November 2014 forward.
7. On November 12, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
8. On November 20, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are found 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.

Additionally, the Claimant applied for MA on October 1, 2014. Department Exhibit 3-8. She was asset eligible except for a guaranteed funeral contract that was not irrevocable and would have to be counted as an asset, which would make the Claimant excess assets for MA. Department Exhibit 12-14. On October 13, 2014, the Department sent the Claimant a verification checklist that was due on October 23, 2014. Department Exhibit 9-10.

On October 22, 2014, the Department received the verification for the Department to make the guaranteed funeral contract an irrevocable funeral contract. Department Exhibit 11. However, there was a church luncheon of \$[REDACTED] that could not be included in an irrevocable funeral contract certified by the Department. Department Exhibit 13. According to the Department Caseworker, she called the Claimant's son and funeral home manager to let them know that the documents provided could not be approved and that the documents had to be resent with the removal of the luncheon in order to be approved as irrevocable.

On November 7, 2014, the Department received a corrected copy of the documents with the luncheon removed. Department Exhibit 25-26. On November 12, 2014, the Department Program Manager signed the Irrevocable Funeral Contract Certification, DHS 8A. Department Exhibit 25. As a result, the Claimant was eligible for MA for the month of November 2014, but not for the month of October 2014 because the certification was not signed as irrevocable by the Department and she was excess assets. On November 12, 2014, the Department sent the Claimant a notice that she was not eligible for MA for October 2014 due to excess assets, but that she was eligible


for November 2014 forward. Department Exhibit 38-41. BEM 400. BAM 1110, 115, 130, 220, and 600.

Although this Administrative Law Judge is concerned because there is no written documentation of a phone call from the Department Caseworker to the Claimant's son or the funeral home manager or written verification of a case note that the Claimant's son and the funeral home manager were notified that the information submitted was incorrect. The original information was not submitted to the Department until October 22, 2014, which was just 9 days before the end of the month. In addition, the contract was not resigned as is legally required, but whited out and a new amount written in. It is obvious that the Department was trying to assist the Claimant, but the information was not provided by the end of October 2014, which made guaranteed funeral contract a required countable asset by the Department.

The Administrative Law Judge, based upon 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 determined that the Claimant had excess assets for MA.

DECISION AND ORDER

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



Carmen G. Fahie
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/27/2015**

Date Mailed: **2/27/2015**

CGF/las

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:

