

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13529
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (41)

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, a telephone hearing was held on January 30, 2014, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED] Claimant's daughter, and [REDACTED] Claimant's son, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's asset-eligibility for Medical Assistance (MA) benefits.

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 benefit recipient.
2. On an unspecified date, Claimant submitted a "Billing Notice" (Exhibit 4) for a life insurance policy.
3. The Billing Notice stated "Description: 5,000 Whole Life – Smoker".
4. On [REDACTED] DHS mailed a Notice of Case Action (Exhibits 1-2) informing Claimant of a termination of MA benefits, effective 12/2013, due to Claimant's assets exceeding the asset limit.

5. On [REDACTED] Claimant requested a hearing to dispute the MA benefit termination.

CONCLUSIONS OF LAW

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. 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 requested a hearing to dispute a termination of MA benefits. It was not disputed that the termination was based on a determination that Claimant had excess assets for MA eligibility.

It was not disputed that Claimant, as an aged and/or disabled individual, was potentially eligible only for SSI-related MA benefits. The SSI-related MA category asset limit is \$2,000 for a benefit group of one. BEM 400 (1/2013), p. 5.

The asset determination made by DHS factored a \$5,000 value for a life insurance policy. A life insurance policy is an asset if it can generate a cash surrender value. BEM 400 (10/2013), p. 41. A cash surrender value is the amount of money the policy owner can get by canceling the policy before it matures or before the insured dies. *Id.*

DHS conceded that no consideration was given whether Claimant's insurance policy had a cash surrender value. Claimant testified that she bought the policy with an intention that it pays her funeral costs. Claimant testified that she has paid less than \$3,000 toward the policy, since having the policy. It is improbable that an insurance policy is worth more than the total amount paid for the policy. This evidence is suggestive that the policy has no cash surrender value.

The verification relied by DHS for the policy's value happened to be described as "whole life". "Whole life" generally means that a policy has a cash value. As it happened, a \$5,000 value was also noted. The document could be reasonably construed as verification of a \$5,000 cash value.

On the other hand, life insurance cash values tend to increase as payments are made on the policy. If this were the case for Claimant's policy, an even amount cash value is improbable.

Based on the presented evidence, the Billing Notice is not found to be definitive evidence of the insurance's cash value. When DHS requires verification of a cash value, a request for verification is appropriate.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2013), p. 2. For MA benefit eligibility, DHS must give clients at least ten days to submit verifications. *Id.*, p. 6. DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2.


DHS did not present any evidence that a cash value for the insurance was requested from Claimant. DHS must allow Claimant an opportunity to verify the cash value of Claimant's life insurance prior to application denial.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA eligibility, effective [REDACTED] and
- (2) process Claimant's ongoing eligibility subject to the finding that DHS improperly failed to request verification of the cash surrender value of Claimant's life insurance prior to terminating Claimant's MA eligibility.

The actions taken by DHS are **REVERSED**.


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

Date Signed: 2/18/2014

Date Mailed: 2/18/2014

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

CG/hw

cc:

