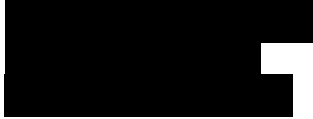


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201418750
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: March 17, 2014
County: Wayne (82)

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 March 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's daughter and the personal representative of his estate. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application 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 died on November 11, 2013.
2. On November 18, 2013, Claimant's daughter filed an MA application for Claimant, requesting three months of retroactive coverage.
3. On December 3, 2013, the Department sent a Notice of Case Action denying Claimant's application based on excess assets.
4. On December 12, 2013, Claimant's daughter filed a request for hearing disputing the Department's actions.

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, asset eligibility for MA 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 (October 2013), p. 6. In this case, Claimant was a widower at the time of his death and therefore had an asset group size of one. BEM 211 (July 2013), pp. 6-7. The asset limit for SSI-related MA, which is available to aged, disabled or blind individuals, for an asset group of one is \$2000. BEM 400, p. 7; BEM 105 (July 2013), p. 1.

The Department concluded that Claimant was not eligible for MA because he had excess assets based on his life insurance policy and the value of real property he owned other than his home. Because Claimant's life insurance policy had no cash surrender value and the proceeds of the policy were paid to Claimant's daughter, the Department improperly considered the policy in calculating Claimant's asset eligibility. See BEM 400, pp. 40-43. However, the Department properly considered the value of Claimant's real property.

Real property, which consists of land any objects affixed to the land such as building, trees and fences, is an asset. BEM 400, p. 29. While an asset must be available to be countable, a client's death and the probating of his estate do not make his assets unavailable for purposes of determining his SSI-related MA eligibility. BEM 400, p. 9. For SSI-related MA purposes, the value of real property owned by a client is its equity value. BEM 400, p. 29. The equity value is the fair market value less the amount legally owed in a written lien provision. BEM 400, p. 29. The Department excludes up to one homestead when the client's equity in the homestead exceeds \$536,000. BEM 400, pp. 30-31. The value of any remaining real property can be established using (i) a deed, mortgage, purchase agreement or contract, (ii) State Equalized Value (SEV) on current property tax records multiplied by two, (iii) attorney or court records, (iv) county records, or (v) statement of real estate agent or financial institution. BEM 400, pp. 57-59.

In this case, Claimant's daughter acknowledged that, in addition to his homestead, Claimant owned one parcel of vacant real property on Houghton Lake. Tax records for

the property showed that it had an SEV of \$4300. There was no evidence of any lien on the property. Therefore, the equity value of the property was two times the SEV, or \$8600 in this case. Because the equity value of Claimant's real property exceeded \$2000, the Department acted in accordance with Department policy when it denied Claimant's MA application for excess assets.

Furthermore, it is noted that although the Department processed Claimant's MA application, Claimant's daughter did not have authority to file an application on Claimant's behalf. An adult child may apply for MA for her parent as her parent's authorized representative. BAM 110 (July 2013), pp. 10-11. However, while an MA application may be made for a deceased person, after death a person does not exist as a legal entity. BAM 110, pp. 4, 11. Therefore, no one can act on the decedent's behalf unless an estate for the decedent is created by the probate court to handle the remaining business and financial issues that were outstanding at the time of death. BAM 110, p. 11.

In this case, Claimant's daughter applied for MA for her father after he had died. Although the daughter was Claimant's guardian and conservator, her authority to act as such expired upon Claimant's death. At the time of the MA application was filed on November 18, 2013, the daughter did not have letters of authority appointing her as personal representative of Claimant's estate. She obtained that authority on March 13, 2014, well after she had applied for MA on Claimant's behalf. Therefore, the daughter did not have authority to file an MA application on Claimant's behalf at the time the November 18, 2013 application was filed.

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 denied Claimant's MA application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.


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

Date Signed: April 1, 2014

Date Mailed: April 1, 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/tlf

cc:

