

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-750
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: December 3, 2013
County: Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 CF R 205.10. A hearing scheduled for November 21, 2013 was adjourned at the request of the Claimant's attorney. After due notice, a telephone hearing was held on December 3, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] P. [REDACTED] Attorney, and [REDACTED] L. [REDACTED] wife. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistant Attorney General, and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's July 27, 2012, Medicaid application 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. On July 27, 2012, a Medicaid application was filed on the Claimant's behalf.
2. No Retroactive Medicaid Application was filed to request coverage for any retro months prior to the July 27, 2012 Medicaid application.
3. On February 9, 2013, the Claimant passed away.
4. On March 19, 2013, a Notice of Case Action was issued to the Claimant stating Medicaid was denied due to excess assets.
5. Upon receipt of additional information from the funeral home, the Department re-processed the July 27, 2012 Medicaid application.

6. On July 25, 2013, a Notice of Case Action was issued to the Claimant stating Medicaid was denied due to excess assets.
7. On September 23, 2013, a request for hearing was filed on the Claimant's behalf contesting the Department's action.

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.

An authorized hearing representative must be authorized or have made application through probate court before signing a hearing request for the Claimant. However, the spouse of a deceased Claimant may file a hearing request. A spouse may also hire an attorney to be the authorized hearing representative. No verification of the authorized hearing representative's prior authorization is required when the authorized hearing representative is the client's attorney at law, parent or, for MA only, spouse. BAM 600 (7/1/2013) pages 2-3. In this case, the hearing request was properly filed by the attorney for the spouse of the deceased Claimant.

Three actions have been taken regarding Medicaid eligibility for the Claimant. The Claimant had a prior active Medicaid case that was due for Redetermination in May 2012. On May 21, 2012, the Department determined the case must be closed because the Claimant was over the asset limit.

On July 27, 2012, a Medicaid application was filed on the Claimant's behalf. On October 17, 2012, a Help Desk Ticket was called in to correct a processing issue regarding ending the presumptive asset eligibility period. On March 18, 2013, the Help Desk Ticket was resolved. On March 19, 2013, a Notice of Case Action was issued to the Claimant stating Medicaid was denied due to excess assets.

Upon receipt of additional information from the funeral home, the Department re-processed the July 27, 2012 Medicaid application. A second Help Desk Ticket was called in to correct another processing issue regarding the spouse's assets being counted in error. On or about July 25, 2013, the second help desk ticket was resolved. On July 25, 2013, a Notice of Case Action was issued to the Claimant stating Medicaid was denied due to excess assets.

On September 23, 2013, a request for hearing was filed on the Claimant's behalf contesting the Department's action.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (7/1/2012) page 4. See also BAM 600 (7/1/2013) page 5. The Claimant's hearing request was filed September 23, 2013. Accordingly, there is no jurisdiction to review the May 21, 2012, determination to close the Claimant's Medicaid case or the March 19, 2013, initial denial of the July 27, 2012, Medicaid application. The sole action the September 23, 2013, hearing request was timely filed to contest was the July 25, 2013, Notice of Case Action, the subsequent denial of the reprocessed July 27, 2012, Medicaid application based on excess assets. The Eligibility Specialist credibly testified that no Retroactive Medicaid Application was filed to request coverage for any retro months prior to the July 27, 2012 Medicaid application. Therefore, there is no jurisdiction to review the Claimant's eligibility for Medicaid for any month prior to July 1, 2012.

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. At **application**, do not authorize MA for future months if the person has excess assets on the processing date. BEM 400 (7/1/2012) page 4 (emphasis in original). In the Claimant's case, the Department utilized the Medicaid asset limit of \$2,000 for an asset group of one. BEM 400 (7/1/2012) page 5.

Funds in an **irrevocable** prepaid funeral contract are unavailable and thus are **not** counted. Funds in a Michigan contract (DHS-8A, Irrevocable Funeral Contract Certification) certified irrevocable are excluded. BEM 400 (7/1/2012) page 38 (emphasis in original). In this case, verification was submitted establishing that the Claimant's prepaid funeral contract was irrevocable. (Exhibit A, pages 4-11) Included were two FIA-8A Irrevocable Funeral Contract Certification forms signed June 29, 2011 and July 6, 2012. (Exhibit A, pages 5 and 9) Accordingly, the funds in the Claimant's irrevocable prepaid funeral contract were unavailable and thus are not counted.

A life insurance policy is an asset if it can generate a Cash Surrender Value (CSV). A policy is the policy owner's asset. The CSV usually increases over time. BEM 400 (7/1/2012) pages 31-32. A May 2, 2012, statement from Reassure America Life Insurance Company was submitted with the July 27, 2012 Medicaid application and verified the surrender value of the Claimant's life insurance was \$ [REDACTED] (Exhibit A, page 18) While this was dated a few months prior to the July 27, 2012, Medicaid application, it was the best available information regarding the value of this asset. Under the BEM 400 policy, the value would be expected to increase over time. However, it is doubtful that much of an increase would have occurred between May 2012 and July 2012. Accordingly, the Department properly counted the Claimant's life insurance, with a value of \$ [REDACTED] as an asset.

Stocks are also a type of investment that are counted as an asset. The Department is to use the closing price for publicly traded stocks to determine the value. BEM 400 (7/1/2012) page 17. The dividend documentation submitted with the July 27, 2012, Medicaid application indicated the Claimant had 30 shares of Verizon stock and 7 shares of Frontier stock. (Exhibit A, pages 19-20) In this case, the Department properly looked at the value of the Claimant's stocks in July 2012, the month of the Medicaid

application. While it is not clear if this was the closing price, the Department provided documentation that on July 31, 2012, the value of the Verizon stock was \$45.19 per share and the Frontier stock was \$ [REDACTED] per share. (Exhibit B, pages 4-14) The Claimant's stocks were countable assets with values of \$ [REDACTED] for Verizon and \$ [REDACTED] for Frontier. While there may be some fluctuation in stock values daily, the Claimant has not provided any evidence of a lower closing price for the stocks on July 31, 2012, or any other dates in July 2012 to establish the Claimant was under asset limit any day that month.

The Claimant's wife testified that the stocks were sold in July 2012 for a net of \$ [REDACTED]. However, there was no evidence this information was ever reported to the Department. A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105 (5/1/2012) page 5. Accordingly, the Department properly determined the Claimant's asset eligibility based on the information reported and verified for the July 27, 2012, application.

The Claimant's countable assets as reported and verified for the July 27, 2012, Medicaid application were: life insurance (\$ [REDACTED]), Verizon stock (\$ [REDACTED]) and Frontier stock (\$ [REDACTED]). The total of the Claimant's reported, verified, countable assets, \$ [REDACTED] exceeds the \$2,000 asset limit for Medicaid for an asset group size of one. Further, even using the net sale value of the stocks of \$ [REDACTED] with the life insurance value of \$997.50, the total countable assets would be \$ [REDACTED] which still exceeds the \$2,000 limit. While the Help Desk tickets noted above explain the delays in issuing notice of the Department's determinations, the evidence indicates the asset values for the stocks were actually processed within the month of application, specifically on July 31, 2012. Under the above cited BEM 400 policy, because this was a new application for Medicaid, the Department could not authorize Medicaid for any future months after July 2012 because the Claimant had excess assets on the date of processing, July 31, 2012. Accordingly, the determination to deny the Claimant's July 27, 2012, Medicaid application must be upheld.

The Claimant's attorney also asserted that the delays in processing the Claimant's July 27, 2012, Medicaid application, as well as the lack of specific information regarding the Department's calculation of the Claimant's assets on the Notices of Case Action, prevented the Claimant from being able to timely address and spend down any excess assets. As noted above, the September 23, 2013, hearing request was only timely filed to contest the July 25, 2013, Notice of Case Action. There is no jurisdiction to review any prior case actions and notices. Further, questions of constitutionality or equity cannot be decided in this forum. The sole jurisdictional authority is to determine whether the Department acted in accordance with policy when denying the Claimant's July 27, 2012, Medicaid application due to excess assets.

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 the Claimant's July 27, 2012, Medicaid application based on excess assets.

DECISION AND ORDER

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

/s/
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 19, 2013

Date Mailed: December 19, 2013

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

CL/hj

cc:

