

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

IN THE MATTER OF:

██████████
██████████
██████████
██████████

Reg. No.: 14-018845
Issue No.: 2001
Case No.: ██████████
Hearing Date: March 05, 2015
County: WAYNE-DISTRICT 82
(ADULT MEDICAL)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 5, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative and duly appointed Conservator, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ FIM, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's application for Medical Assistance due to assets exceeding the asset limit at the time of the application?

FINDINGS OF FACT

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

1. At the time of the medical application on September 30, 2014 the Claimant was in a long term care facility. The Claimant's Conservator and son was appointed by the ██████████ on ██████████ and was given authority with respect to all assets of the Claimant's estate.

2. The Conservator could not sell any annuity or life insurance policy without a written court order. The Conservator had alleged that his mother had diminished mental capacity. The Conservator's hearing request indicated that the life insurance and small stock account are beyond the duties of the Conservator as court orders were necessary to dispose of assets.
3. The Department found that the Claimant had \$1994.10 in liquid assets and two insurance policies with cash surrender values of \$2559.93 and determined the total assets were \$4594.03, which put the Claimant over the \$2,000 asset limit and the application was denied. Exhibit A and B.
4. The Claimant had stock worth \$2,007.94 as of April 14, 2014. Exhibit A p. 3.
5. The Claimant's checking account contained \$249.17 after income received was subtracted from the balance.
6. The Department sent a Health Care Determination Notice on November 19, 2014 denying the application for Medical Assistance due to the life insurance policies and bank account and stocks. Exhibit C

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

Additionally, the Department denied the Claimant's Conservator's application for Medical Assistance on her behalf due to excess assets. At the time of the denial the Claimant was in a long term care facility.

The Department explained at the hearing that Claimant's MA coverage for September 30, 2014 was denied because Claimant was the owner of two life insurance policies and stock as well as some cash in her checking account which were assets and exceeded the MA asset limit.

The asset limit for SSI-related MA, which is available to aged, disabled or blind individuals, for an asset group of one (Claimant) is \$2000. BEM 400 (July 2013), p. 7; BEM 211 (July 2013), pp. 6-7; BEM 105 (July 2013), p. 1. 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. As the application was filed for the month of September when the assets exceeded \$2,000, the Department correctly determined that the Claimant's assets exceeded the asset limit.

A life insurance policy is an asset of the policy owner. BEM 400, p. 40. For SSI-related MA, a life insurance policy is a countable asset if it can generate a cash surrender value (CSV), with the policy's value being its CSV, unless the value of the insurance policy is excluded under Department policy. BEM 400, pp. 40-41. An exclusion is available if (i) the insurance is for funeral and meets the definition for a funeral plan policy, (ii) the face value of all policies a policy owner has for the same insured is \$1,500 or less, (iii) burial insurance, (iv) the policy is an endowment policy. BEM 400, (7/1/14)pp. 41-42.

In this case, Claimant owned two life insurance policies with a CSV as of September 30, 2014 of \$2420.97 and \$178.96 which policies alone exceeded the \$2000 asset limit. These policies did not qualify for any of the exclusions as they were not to meet the needs of a funeral plan policy. There was no evidence that the policies met any of the exclusions preventing them from being considered Claimant's countable asset. In addition the Claimant owned [REDACTED] valued at \$1685.

For the Claimant's SSI-related MA category the asset limit is:
 \$2,000 for an asset group of one. BEM400 (7/1/14) p.7

An asset must be available to be countable. **Available** means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, pp.8

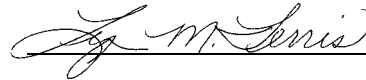
Based upon the foregoing it is determined that the Claimant's Conservator's arguments that he needed a court order from the Probate Court to spend down or liquidate the assets does not support the contention that the assets were not , as no such court order was sought prior to the application. At all times pertinent the Claimant through her Conservator had the legal right to use or dispose of the assets. The Conservator had been appointed since [REDACTED] and had ample time to spend down the assets. Based upon the foregoing it is determined that the Department correctly denied the September 30, 2014 application due to the Claimant's assets exceeding the \$2,000 applicable asset limit.

The Claimant's Conservator can reapply for Medical Assistance at any time.

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 application for Medical Assistance.

DECISION AND ORDER

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



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/3/2015**

Date Mailed: **4/3/2015**

LMF / 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

