

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008653
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: August 12, 2015
County: Dickinson

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on August 12, 2015, from Iron Mountain, Michigan. Participants on behalf of Claimant included Attorney [REDACTED] and Paralegal [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Assistance Payment Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly find Claimant was over the asset limit for Medicaid?

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 April 10, 2015, the Department received Claimant's application for Medical Assistance (MA) benefits.
2. On April 22, 2015, the Department sent a Verification Checklist to Claimant requesting bank accounts, annuity and prepaid burial contracts.
3. On May 22, 2015, the Department denied Claimant's request for Medicaid because she was over the \$ [REDACTED] limit.
4. On May 28, 2012, the Department received Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Countable Assets

The Department based the denial of Medicaid on the below listed assets. The asset limit for a group of one is \$ [REDACTED]

\$ [REDACTED]	funeral contract was life insurance, irrevocable, not counted
\$ [REDACTED]	certificate of deposit
\$ [REDACTED]	savings account # [REDACTED]
\$ [REDACTED]	checking account # [REDACTED]
\$ [REDACTED]	cash

As a result of the Department's calculations, Claimant was \$ [REDACTED] over the \$ [REDACTED] limit for Medicaid benefits. Claimant argues the \$ [REDACTED] CD in the name of the [REDACTED] was unavailable and therefore should not have been counted by the Department as an asset. The Department contends that because the CD was cancellable, it was not revocable and was an asset.

Prepaid Funeral Contract

A funeral plan refers to the prearrangement for cemetery and/or funeral goods and services. BEM 400, p. 34. The plan may be established with a prepaid funeral contract. BEM 400, pp 34-35. A prepaid funeral contract requires payment in advance for funeral goods or services. BEM 400, p. 39; MCL 328.215(d). For program eligibility purposes, an irrevocable contract means money in the contract fund, including interest or dividends, which is permanently unavailable to the purchaser/beneficiary. BAM 805 (July 2011), p. 2. A guaranteed price contract fixes the price to be charged for funeral goods and services listed in the contract. BAM 805, p. 1; MCL 328.214(1)(g). A prepaid funeral contract must be certified irrevocable provided all the following requirements are met:

- The contract purchaser requests via DHS-8A that the contract be certified irrevocable;
- The contract purchaser is the beneficiary, is alive, and a FIP/SDA/MA/SSI applicant or recipient;
- The Department has a copy of the contract;
- The principle value is not over the allowable principal value;
- Sections I and II of the DHS-8A are properly completed; and
- Ten or more business days have passed since all parties signed the contract. BEM 805, pp 3-4.

When determining MA eligibility, funds in an irrevocable prepaid funeral contract are unavailable and, thus, excluded. BEM 400, p 39.

Based on the completion of the Irrevocable Funeral Contract Certification (DHS-8A), the Department found the \$ [REDACTED] funeral contract was life insurance in that it was irrevocably assigned to the funeral home making it exempt and not countable as an asset.

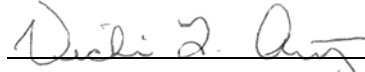
In this case, the April 10, 2015, MA application noted a Prepaid Funeral Agreement valued at \$ [REDACTED]. The contract was executed within the look-back period. Claimant Exhibit A, p. 15. The terms of this Agreement clearly provide for cancellation. In fact, when Claimant's representative was asked during the hearing whether he agreed that the contract was in fact cancellable, the representative said yes. Therefore, by Claimant's representative's own admission, the contract was cancellable and hence not irrevocable; as such, it is not an allowable expense. Accordingly, the Department properly counted the \$ [REDACTED] as an asset.

The Department then looked to BEM 400, p 46 under Burial Fund Exclusion. Based on policy, the Department excluded \$ [REDACTED] as allowed, reducing the countable \$ [REDACTED] CD to \$ [REDACTED].

As a result and based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, this Administrative Law Judge finds that the Department properly counted \$ [REDACTED] of the \$ [REDACTED] CD as an asset, and properly denied Claimant's MA application for over the asset limit.

DECISION AND ORDER

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



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/18/2015**

Date Mailed: **8/18/2015**

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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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

