

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003670
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: Berrien

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 April 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Family Independence Manager, and [REDACTED] caseworker.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the 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. On December 16, 2014, the Claimant applied for Medical Assistance (MA).
2. The Claimant reported to the Department that she possesses a whole life insurance policy with a cash value of \$ [REDACTED].
3. On January 26, 2015, the Department notified the Claimant that it had denied her Medical Assistance (MA) application.
4. On February 3, 2015, the Department received the Claimant's request for a hearing protesting the denial of her Medical Assistance (MA) application.

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 Family Independence Agency and the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2014), pp 1-7.

A life insurance policy is a contract between the policy owner and the company that provides the insurance. The company agrees to pay money to a designated beneficiary upon the death of the insured. Some or all of the value of insurance might be excluded to pay for funeral expenses. The cash value of a life insurance policy can be excluded from countable assets where the asset is clearly designated for funeral expenses. The designation can be on the asset or on a signed statement from the client. Department of Health and Human Services Bridges Eligibility Manual (BEM) 400 (April 1, 2014), pp 41-51.

The designation must include the following information:

- Value and owner of the asset.
- Whose burial the fund is for.
- Date the funds were set aside for the person's burial.
- Form in which the asset is held. BEM 400.

On December 16, 2014, the Claimant applied for Medical Assistance (MA) and reported to the Department that she possesses a whole life insurance policy with a cash value of \$ [REDACTED]. Person's receiving social security benefits are generally not eligible for MA benefits where their countable assets exceed \$2,000, and the cash value of a life insurance policy is considered a countable asset by BEM 400.

The Claimant argued that this life insurance policy is intended to relieve her family of funeral expenses in the event of her death and that the Department should exclude its value as an asset.

Department policy does allow an exception for life insurance policies that have been designated to cover funeral expenses. Insufficient evidence and testimony was presented on the record to clarify whether the proceeds and/or cash value of the Claimant's life insurance policy have been designated for funeral expenses. The Department has the burden of establishing that the denial of the Claimant's application for assistance was in accordance with policy. This Administrative Law Judge finds that the Department has failed to present sufficient evidence to determine whether this exception was considered when deny the MA application.


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's Medical Assistance (MA) application based on excess assets.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Allow the Claimant a ten-day period to clarify whether her life insurance policy has been designated for funeral expenses.
2. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) as of December 1, 2014.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/27/2015**

Date Mailed: **4/27/2015**

KS/las

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

cc:

