

ISSUE

Did the Respondent properly deny Petitioner's request for a caretaker relative exemption under the Michigan Estate Recovery Program?

FINDINGS OF FACT

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

1. The Department brought a claim for estate recovery from the Estate of REDACTED REDACTED pursuant to the mandates of 42 USC 1396p, MCL 400.112g, the Michigan State Medicaid Plan (MSMP) as amended (SPA) and Department policy (Bridges Administrative Manual [BAM]) for long-term care provided to REDACTED REDACTED and paid for by Medicaid. (Exhibit A; Testimony)
2. In January 2023, the Applicant filed a request for a caretaker relative exemption from estate recovery. (Exhibit A; Testimony)
3. Pursuant to law and Department policy, caretaker relative exemptions require that an applicant be related to the decedent by blood, marriage, or adoption and be within the fifth degree of kinship to the recipient. (Exhibit A; Testimony)
4. On January 23, 2023, the Department sent Ms. REDACTED notice that the request for a caretaker relative exemption was denied for failing to meet the policy requirements as the evidence did not show that she was related to the decedent by blood, marriage, or adoption, or was within the fifth degree of kinship to the recipient. (Exhibit A; Testimony)
5. On March 31, 2023, Petitioner's Request for Hearing was received by the Michigan Office of Administrative Hearings and Rules.

CONCLUSIONS OF LAW

The Estate Recovery Program is operated according to policies developed by the Department based on 42 USC 1396p, 42 CFR 433.36, MCL 400.112g, and the Michigan State Medicaid Plan (MSMP) as amended (SPA). MCL 400.112g requires the Department to establish and implement an estate recovery program subject to an

amendment to the MSMP and operated according to the provisions of the SPA as accepted by CMS.

MCL 400.112g provides, in pertinent part:

(6) The department of community health shall not recover assets from the home of a medical assistance recipient if 1 or more of the following individuals are lawfully residing in that home:

(a) The medical assistance recipient's spouse.

(b) The medical assistance recipient's child who is under the age of 21 years, or is blind or permanently and totally disabled as defined in section 1614 of the social security act, 42 USC 1382c.

(c) The medical assistance recipient's caretaker relative who was residing in the medical assistance recipient's home for a period of at least 2 years immediately before the date of the medical assistance recipient's admission to a medical institution and who establishes that he or she provided care that permitted the medical assistance recipient to reside at home rather than in an institution. As used in this subdivision, "caretaker relative" means any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the recipient.

(d) The medical assistance recipient's sibling who has an equity interest in the medical assistance recipient's home and who was residing in the medical assistance recipient's home for a period of at least 1 year immediately before the date of the individual's admission to a medical institution. (Emphasis added)

In order to follow the dictates of MCL 400.112g, the Department developed amendments to the State Plan under Title XIX of the Social Security Act and submitted the proposal to the Federal Centers for Medicare and Medicaid, Department of Health and Human Services, for approval. On May 23, 2011, the amendments to Michigan's State Plan were approved, with an effective date of July 1, 2010. Further amendments were approved September 19, 2012, with an effective date of April 1, 2012.

Here, the Applicant filed a request for a caretaker relative exemption from estate recovery. On January 23, 2023, the Department sent the Applicant notice that the request for a caretaker relative exemption was denied for failing to meet the policy requirements as the evidence did not show that she was related to the decedent by blood, marriage, or adoption and was not within the fifth degree of kinship to the recipient.

Ms. REDACTED testified that she and the decedent were together for over 20 years. Ms. REDACTED indicated that the decedent did have a will, which he signed, but they were

unable to get it notarized prior to his passing. Ms. REDACTED testified that she took care of the decedent for many years through numerous health problems. Ms. REDACTED indicated that while she and the decedent did elope to Florida at some point and had a marriage ceremony, they never received or filed any paperwork to make the marriage legal. Ms. REDACTED testified that she was not a blood relative of the decedent.

Based on the evidence presented, Petitioner has failed to prove, by a preponderance of the evidence, that the Department's denial of the caretaker relative exemption was improper. As indicated above, caretaker relative exemptions require that an applicant be related to the decedent by blood, marriage, or adoption and be within the fifth degree of kinship to the recipient. See MCL 400.112g(6)(c). Here, the documentation Ms. REDACTED provided did not show that she met those criteria. Therefore, based on the evidence, Ms. REDACTED does not qualify for a caretaker relative exemption.

To the extent Ms. REDACTED is requesting equitable relief, the undersigned has no equitable authority to grant Petitioner such relief. (*See Huron Behavioral Health v Department of Community Health*, 293 Mich App 491 (2011)). As such, the Department's actions are proper and should be upheld.

DECISION AND ORDER

Based on the above, the undersigned administrative law judge finds that the Department's decision to deny a caretaker relative exemption is UPHELD. The Department may recover all Medicaid funds paid on behalf of the deceased Medicaid beneficiary, REDACTED REDACTED.