

ISSUE

Did the Respondent properly deny Applicant'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 has 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 as amended, and Department policy. (Testimony of Department's representative).
2. Applicant subsequently filed a request for a caretaker relative exemption from estate recovery. (Exhibit C, page 1; Testimony Of Petitioner; Testimony of Department's representative).
3. Applicant is not related to the decedent in this case, Ms. REDACTED REDACTED, by blood, marriage, adoption, or within the fifth degree of kinship. (Testimony of Petitioner).
4. On March 17, 2023, the Department sent Applicant written notice that his request for a caretaker relative exemption was denied on the basis that he does not meet the requirements for a statutory exemption under MCL 400.112g. (Exhibit C, page 1).
5. On May 15, 2023, the Michigan Office of Administrative Hearings and Rules (MOAHR) received the request for hearing filed in this matter.

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 as amended.

MCL 400.112g requires the Department to establish and implement an estate recovery program subject to an amendment to the Michigan State Medicaid Plan and operated according to the provisions of the amended State Plan as accepted by the Centers for Medicare & Medicaid Services (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)

Here, Applicant filed a request for a caretaker relative exemption from estate recovery. On March 17, 2023, the Department sent Applicant written notice that the request for a caretaker relative exemption was denied for failing to meet the policy requirements. Specifically, the evidence did not show that he was related to the decedent by blood, marriage, or adoption, and he was not within the fifth degree of kinship to the recipient.

Applicant did not disagree with those findings during the hearing and testified that he was instead present to defend his interest in a home once owned, at least in part, by the decedent and now owned solely by Applicant.

However, Petitioner's issue is beyond the scope of this proceeding and outside of the sole action to be addressed, i.e., the denial of a caretaker relative exemption. Applicant was advised to pursue his interests in probate court or other appropriate venues.

Accordingly, based on the evidence presented, Applicant 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, Petitioner has conceded that he does not meet that criteria, and, consequently, he does not qualify for a caretaker relative exemption.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the request for a caretaker relative exemption under the Michigan Estate Recovery Program.

IT IS THEREFORE ORDERED that:

The Department's decision is **AFFIRMED**.