

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

IN THE MATTER OF:

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Reg. No.: 2013-37187
Issue No.: 2021
Case No.: ██████████
Hearing Date: June 26, 2012
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, June 26, 2013. The Claimant did not appear; however her Authorized Hearing Representative, ██████████, appeared on her behalf. Participating on behalf of Department of Human Services ("Department") was ██████████.

ISSUE

Whether the Department properly denied Claimant's February 13, 2013 application for Medical Assistance ("MA") benefits based on excess assets?

FINDINGS OF FACT

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

1. Claimant resides in a long-term care facility.
2. On February 13, 2013, the Department received an application for MA benefits.
3. The Department notified Claimant that the MA application was denied based on Claimant's countable assets exceeding ██████████
4. On March 25, 2013, the Department received Claimant's written request for hearing.

CONCLUSIONS OF LAW

As a preliminary matter, Claimant submitted another application for MA benefits after the request for hearing was received. This time, the application was approved but a divestment penalty was imposed. Claimant wanted to proceed on the divestment issue; however, it was explained that another request for hearing needed to be filed in order to contest the imposition of the divestment penalty.

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

The Medical Assistance ("MA") program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. The Department of Human Services, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

In addition to income, assets are also considered when determining MA eligibility. Assets include cash, personal property, and real property. BEM 400 (January 2013), p. 1. The asset limit for SSI-related MA benefits is \$2,000.00 for an individual and \$3,000.00 for a group of two. BEM 400, p. 5.

In this case, the Department received Claimant's application for MA benefits on February 13, 2013. Prior to November 2012, Claimant's house was held in a revocable trust as such was a countable asset. In November 2012, the home was removed from the trust and became an exempt asset as Claimant's homestead. In processing the February 2013 application, the Department counted the home as an asset resulting in the denial of MA benefits because assets exceeded \$2,000.00. Claimant presented a quit claim deed dated November 3, 2012 and recorded on November 26, 2012 which confirms the transfer of the homestead out of the trust. As such, the homestead is exempt and should not have been included as an asset when determining Claimant's MA eligibility. As noted above, Claimant submitted a second application on March 28th which resulted in an approval of MA benefits effective December 2012. Claimant acknowledged that as of November 2012, the homestead was a countable asset and therefore Claimant would not be eligible for November 2012 due to excess assets. In general, whenever the Department's action is reversed, the Department would be ordered to re-register and process the application and to supplement for lost benefits that Claimant was otherwise eligible to receive in accordance with Department policy. Here, because Claimant submitted another MA application which was approved as of December 2012, there is no further remedy with respect to the February 13, 2013 application. This was explained to the AHR during the hearing as well as the need to file a hearing request, if the imposition of the divestment penalty was disputed.

Accordingly, since there is no issue to resolve, Claimant's March 25, 2013 Request for Hearing is DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has activated MA coverage effective December 2012 thus making Claimant's original Hearing Request moot.

Accordingly, it is ORDERED:

Claimant's March 25, 2013, Request for Hearing is DISMISSED.

Colleen M. Mamelka

Colleen M. Mamelka

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 10, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

2013-37187/CMM

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/tm

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[REDACTED]
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