

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

IN THE MATTER OF:

██████████
██████████
████████████████████
██████████

Reg. No.: 2013-37520
Issue No.: 2021
Case No.: ██████████
Hearing Date: July 23, 2013
County: Lapeer-00

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on July 23, 2013, from Lansing, Michigan. Participants on behalf of Claimant included, his son and Authorized Representative, ██████████. Participants on behalf of the Department included, Lou Ann Bexton.

ISSUE

Did the Department properly deny Claimant's MA application for 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. On February 14, 2013, Claimant applied for Medicaid.
2. On March 15, 2013, Claimant's application was denied due to excess assets.
3. On March 22, 2013, Claimant requested hearing.
4. The Department determined that the ██████████ amended January 31, 2008, did not qualify as a Medicaid trust.
5. The Department determined that Claimant had ██████████ in countable assets at the time of application.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence

Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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 (CFR). 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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

MEDICAID TRUST CRITERIA

A Medicaid trust is a trust that meets conditions 1 through 5 below:

1. The person whose resources were transferred to the trust is someone whose assets, or income, must be counted to determine MA eligibility, an MA post-eligibility patient-pay amount, a divestment penalty, or an initial assessment amount. A person's resources include his spouse's resources (see definition).
2. The trust was established by:
 - a. The person.
 - b. The person's spouse.

- c. Someone else (including a court or administrative body) with legal authority to act in place of, or on behalf of, the person, or the person's spouse, or an attorney, or adult child.
 - d. Someone else (including a court or administrative body) acting at the direction, or upon the request of the person, or the person's spouse, or an attorney ordered by the court.
- 3. The trust was established on or after August 11, 1993.
 - 4. The trust was not established by a will.
 - 5. The trust is **NOT** described in Exception A, Special Needs Trust, or Exception B, Pooled Trust in this item. BEM 401

In the present case, Claimant's representative did not dispute that the trust did not qualify as a Medicaid Trust. Claimant's representative raised issues with regard to the timeliness of the Department's processing of the application. The application was processed in 29 days, which is within the 45 day, standard of promptness for a Medicaid application. The Department's denial of Claimant's MA application due to excess assets was proper and correct.

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

did act properly when it denied Claimant's MA application due to excess assets.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is **AFFIRMED** REVERSED for the reasons set forth in this decision.



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

Date Signed: 07/26/2013

Date Mailed: 07/29/2013

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 affect the substantial rights of the claimant;
 - failure of the ALJ to address other relevant issues in the hearing decision.

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

AM/pw

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]