

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-59699
Issue No.: 2021, 3021
Case No.: [REDACTED]
Hearing Date: August 22, 2013
County: Oakland DHS (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 22, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] appeared as Claimant's translator and authorized hearing representative (AHR). Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined the value of Claimant's assets in determining Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility.

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 6/11/12, Claimant entered into a land contract for the sale of real property.
2. The land contract (Exhibits 2-5) verified that Claimant was to receive a total of \$30,000; \$2500 to be paid immediately and \$659.98/month thereafter.
3. On 6/13/13, Claimant applied for FAP and MA benefits.
4. As of 6/7/13, Claimant was the owner of real property and owed a mortgage of \$21,272.75 on the property with monthly payments of \$659.98.

5. On 7/8/13, DHS denied Claimant's FAP and MA benefit application due to excess assets.
6. On 7/18/13, Claimant requested a hearing to dispute the FAP and MA application denials.

CONCLUSIONS OF LAW

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a denial of FAP and MA benefits. It was not disputed that the denial was based on excess assets.

A note is a written promise to pay a certain sum of money to another person at a specified time. BEM 400 (7/2013), p. 29. The most common type of note involves the sale of real property and is called a land contract or a mortgage. *Id.*

It was not disputed that Claimant was the owner of a land contract. DHS failed to establish how much the land contract was valued when Claimant's asset eligibility was determined. The land contract was presented and it was not disputed that Claimant was to receive monthly payments for \$659.98 from a \$30,000 purchase price and a \$2500 down payment. Giving Claimant credit for receiving 12 monthly payments would make the contract worth \$19580.24 at the time of Claimant's application submission. Presumably, DHS determined the land contract value to be a similar value because the amount far exceeds the asset limit for FAP and MA eligibility.

Claimant contended that DHS should have also factored the amount owing on the property that was the subject of the land contract. It was verified via mortgage statement (Exhibit 1) that as of 6/3/13, Claimant owed \$21,272.75 on the real property that was the subject of the land contract.

The value of a promissory note, land contract or mortgage is the amount it can be sold for in the holder's geographic area on short notice (usually at a commercial discount rate) minus any lien on the property the holder must repay. *Id.*, p. 31. A mortgage is a lien against the property. DHS conceded that the mortgage was not factored in determining the land contract value. Accordingly, the asset determination resulting in a denial of Claimant's MA and FAP application was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA and FAP benefits. It is ordered that DHS:

- (1) reinstate Claimant's FAP and MA application dated 6/13/13;
- (2) process Claimant's asset eligibility subject to the finding that DHS is to factor Claimant's mortgage when determining the value of Claimant's promissory note; and
- (3) initiate supplement of any benefits improperly not issued.

The actions taken by DHS are REVERSED.



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

Date Signed: 8/29/2013

Date Mailed: 8/29/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

CG/hw

cc:

