

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-37888
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: August 8, 2013
County: Gogebic County DHS

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] County Director, [REDACTED] FIM, and [REDACTED] ES.

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA)?

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 applied for MA on March 15, 2013.
2. Claimant was in a fiscal group size of one.
3. On March 20, 2013, the Department denied Claimant's application due to excess assets.
4. The Department counted vehicles Claimant owned jointly with his sister in Determining MA assets.
5. On March 20, 2013, the Department sent Claimant notice of the denial.

6. On March 26, 2013, Claimant filed a hearing request, protesting the denial of the 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 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.

BEM 400 instructs:

FIP, SDA, LIF, G2U, G2C, SSI-Related MA AMP and FAP

Jointly owned assets are assets that have more than one owner.

An asset is unavailable if an owner **cannot** sell or spend his share of an asset:

- Without another owner's consent, and
- The other owner is not in the asset group, and
- The other owner refuses consent.

Exception 1: In SSI-related MA, when ownership is shared by an SSI related child and his parent(s) **and** parental asset deeming applies, refusal to sell by either the child or the parent(s) does **not** make an asset unavailable; see Deeming of Parental Assets in this item.

Exception 2: For FAP, the value of a vehicle is available even if a joint owner refuses to sell.

In the present case, the Department did not deny that when it determined whether Claimant was eligible for MA, the Department counted vehicles that were jointly owned by Claimant and his sister, who was not in his asset group. (The titles of the vehicles were not offered into evidence.) The Department did not present evidence that it had determined whether Claimant's sister refused consent to sell the vehicles. Without Claimant's sister's consent to sell the vehicles, the vehicles are unavailable to count in determining asset eligibility with respect to MA. BEM 400

Exhibit 1, p. 10 shows the MA assets counted by the Department.. Without the vehicles valued at \$[REDACTED] being counted, Claimant's assets do not exceed the MA asset limit of \$2000.00. *Id.*

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, the Administrative Law Judge concludes that the Department improperly denied Claimant's application for MA.

It is noted that on March 26, 2013, Claimant signed a request for hearing regarding Cash Assistance, Medicaid, Child Development and Care, Food Assistance, and State Emergency Relief. Claimant's hearing requests were addressed in registration numbers, 2013-37887, 2013-37888, 2013-37889, 2013-37891, and 2013-42889. In addition, in Claimant's hearing request, he struck through all check boxes for all benefits, including Child Development and Care. However, Claimant does not claim to have children under his care, as he testified that he is the only member in his benefits group. Therefore, Child Development and Care is not addressed herein.

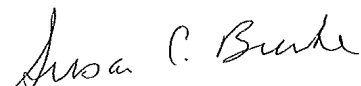
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, finds that the Department did not act properly.

Accordingly, the Department's MA decision is REVERSED for the reasons stated within the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate reinstatement and reprocessing of Claimant's MA application of March 15, 2013.
2. Notify Claimant in writing of the Department's determination with regard to MA eligibility.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2013

Date Mailed: August 23, 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

SB/hj

cc:

