

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

IN THE MATTER OF:

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

Reg. No.: 2013-68326
Issue No(s): 2001
Case No.: ██████████
Hearing Date: December 3, 2013
County: Livingston

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in person hearing was held on December 3, 2013, from Howell, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included Paul Bilinski, Jennifer Grab, and Brenda Bolek.

ISSUE

Did the Department properly close Claimant's MA case due to 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. At redetermination in April 2013 it was discovered that Claimant's house in Arizona was not for sale.
2. Claimant's home in Arizona was valued at ██████████
3. On August 22, 2013, Notice of Case Action was sent to Claimant informing her that her MA case would close effective September 1, 2013 because the value of your countable assets is higher than allowed for this program.
4. Claimant requested hearing on September 3, 2013, contesting the closure of MA benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

NON-SALABLE ASSETS

SSI-Related MA Non-Salable Assets **SSI-Related MA Only**

Give the asset a \$0 countable value when it has no current market value as shown by one of the following:

Two knowledgeable appropriate sources (example: realtor, banker, stockbroker) in the owner's geographic area state that the asset is **not** saleable due to a specific condition (for example, the property is contaminated with heavy metals). This applies to any assets listed under:

- Investments.
- Vehicles.
- Livestock.
- Burial Space Defined.
- Employment and Training Assets.
- Homes and Real Property (see below).

In addition, for homes, life leases, land contracts, mortgages, and any other real property, an actual sale attempt at or below fair market value in the owner's geographic area results in no reasonable offer to purchase. The asset becomes salable when a reasonable offer is received. Count an asset that no longer meets these conditions.

For applicants, an active attempt to sell must have started at least 90 days prior to application and must continue until the property is sold. For recipients, the asset must have been up for sale at least 30 days prior to redetermination and must continue until the property is sold. An active attempt to sell means the seller has a set price for fair market value, is actively advertising the sale in publications such as local newspaper, and is currently listed with a licensed realtor. BEM 400

Additionally, when Claimant's 2nd home in Arizona was no longer listed for sale, or with a licensed realtor, pursuant to Department policy BEM 400, the property became countable. The value of the home was [REDACTED] Claimant's husband did not dispute this value at hearing. With the inclusion of the 2nd home, Claimant had excess assets and was not eligible for MA. The Department's closure on that basis was proper and correct.

Claimant's husband acknowledged at hearing that the home in Arizona was not listed for sale, or with a licensed realtor, during the period in question. Claimant's husband explained that the property was not listed because of market conditions and costs related to listing the property. These explanations do nothing to negate the fact that the property was required to be countable pursuant to Department policy. BEM 400

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

acted in accordance with Department policy when it closed Claimant's MA case due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



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

Date Signed: 12/26/2013

Date Mailed: 12/26/2013

NOTICE OF APPEAL: 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.

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).

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

AM/pw

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