

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201315687
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: April 29, 2013
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 29, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's attorney. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Medical Contact Worker/Eligibility Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly deny Claimant Medical Assistance (MA) coverage for July 2012 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 was an ongoing MA recipient from April 1, 2012, ongoing;
2. On November 29, 2012, the Department sent Claimant a Notice of Case Action informing her that she was not eligible for MA benefits for July 2012.
3. Claimant has received MA benefits from August 1, 2012, ongoing.
4. On December 3, 2012, Claimant requested a hearing concerning the Department's actions.

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), and Department of Human Services 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.

Additionally, Claimant requested two prior hearings resulting in an October 5, 2012 Hearing Decision concerning Claimant's MA case and a November 21, 2012 Hearing Decision concerning Claimant's FAP case. The October 5, 2012 Hearing Decision affirmed the Department, finding that, although it had improperly denied Claimant's MA case, it had rectified its actions by reregistering and reprocessing Claimant's MA application to determine her MA eligibility on the basis of disability.

At the hearing, the parties testified that Claimant received disability-based MA coverage effective April 1, 2012. The November 29, 2012, Notice of Case Action sent by the Department to Claimant notified her that she was approved for MA coverage under the Ad-Care program for May and June 2012, but she was denied MA coverage under the MA SSI-related program available for aged, blind and disabled individuals for July 2012 because the value of her countable assets was greater than that allowed under the program. The parties testified that Claimant had received MA coverage after July 2012, from August 1, 2012, ongoing. Claimant's attorney clarified that the current hearing was requested regarding only Claimant's July 2012 MA coverage.

The asset limit for SSI-related MA for an asset group of one (Claimant) is \$2000. BEM 400 (July 1, 2012), p 5; BEM 211 (January 1, 2012), pp 5-6. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p 4.

At the hearing, the Department was unable to establish what assets were considered in determining that Claimant's assets exceeded the asset limit in July 2012 or the value of these assets. While the evidence presented showed that in March 2012, Claimant had a checking account with a balance over \$67,000, the evidence also included a November 15, 2013, Memo prepared by the Department's Office of Legal Services stating that Claimant's trust established on February 8, 2012, was not an asset (Exhibit 3), and Claimant's attorney credible testimony that the funds in this checking account were transferred to the trust to fund it on March 31, 2012. Thus, the funds in the trust were not an asset during July 2012. Furthermore, Claimant's attorney credibly testified that they had presented the same verification of assets to the Department for all of the months requested after April 1, 2012 and the Department had been unable to explain


why Claimant was asset-ineligible for July 2012 when she was asset-eligible for the other months based on the same verifications. The Department was unable to explain this discrepancy. Based on the facts presented, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant MA coverage for July 2012.

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 not satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant her July 2012 MA coverage. Accordingly, the Department's decision is REVERSED.

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

1. Provide Claimant with MA coverage for July 2012.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/6/2013

Date Mailed: 5/6/2013

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,

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- 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.

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

ACE/hw

cc:

