

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-30035
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wayne (82-49)

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 June 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and Medicare Savings Program (MSP) cases?

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 recipient MSP and MA benefits.
2. In connection with an October 2012 MA redetermination, the Department requested verification of Claimant's assets.
3. On January 10, 2013, the Department sent Claimant a Notice of Case Action closing his MSP case effective February 1, 2013, and denying his MA case as of December 1, 2012, due to excess assets.

4. On January 29, 2012, Claimant's sister filed a hearing request, protesting 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, as a preliminary matter, it is noted that Claimant's sister requested a hearing on Claimant's behalf on January 29, 2013. While the sister provided documentation showing that Claimant had authorized her to act on his behalf, the authorization was dated February 17, 2013, after the request for hearing was signed. However, Claimant appeared at the hearing and testified that he wished to have his sister represent him. Therefore, the proceeding continued with Claimant's sister as Claimant's AHR.

On January 10, 2013, the Department sent Claimant a Notice of Case Action closing his MSP case and denying his ongoing MA coverage because he had assets in excess of the limits for those programs. Claimant is the sole member of his MA asset group. BEM 211 (November 1, 2012), pp. 5-6. For an asset group of one, the asset limit for SSI-related MA is \$2,000 and the asset limit for MSP is \$6,940. BEM 400 (January 1, 2013), p. 5. 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.

In this case, on October 27, 2012, in connection with an MA redetermination, the Department requested verification of Claimant's assets, consisting of a life insurance account, a checking account and a savings account. The Department concluded that Claimant's total asset value was \$8,845.84, consisting of the following: (i) \$174 for a life insurance policy; (ii) \$418.60 for a savings account; and (iii) \$8,253.24 for a checking account.

Claimant's AHR contested the value of the checking account, contending that the account included a \$6,900 deposit from Claimant's mother's death benefit that was intended for the benefit of the mother's children and grandchildren and should not have been included in determining the value of Claimant's checking account. The AHR presented evidence that the \$6,900 was distributed between February 2013 and May 2013 to Claimant, his siblings, and his nieces and nephews, with Claimant receiving only \$612.

A checking account is an asset, and its value is the money in the account. BEM 400, pp 11-12. In order to be a countable asset, the asset must be available, meaning that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 7. The Department assumes an asset is available unless evidence shows that it is not available. BEM 400, p. 7. For joint savings and bank accounts, the Department counts the entire amount of the asset unless the person claims and verifies a different ownership, in which case each owner's share is the amount they own. BEM 400, pp. 8-9.

In this case, Claimant indicated in a handwritten notation in the financial documentation he submitted to the Department on November 13, 2012, that the checking account balance of \$8,253 included a \$7,000 deposit made on November 1, 2012, that was to be divided among his siblings. However, the Verification of Assets completed by Claimant's financial institution shows that Claimant was the sole account holder of the checking account at issue. Thus, the funds in the account were available to Claimant. The financial institution did not identify on the Verification of Assets that there were joint owners of Claimant's checking account. As such, the Department properly allocated the entire amount of the asset to Claimant at the time the asset valuation was made in November 2012. Because the value of the funds in the checking account exceeded the asset value limit applicable to the MSP and MA programs, the Department acted in accordance with Department policy when it closed Claimant's MSP case and denied his ongoing MA eligibility for excess assets.

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 acted in accordance with Department policy when it closed Claimant's MSP case and denied his ongoing MA eligibility for excess assets.

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: June 19, 2013

Date Mailed: June 19, 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,
 - 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/pf

cc:

