

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201341561
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: July 30, 2013
County: Wexford

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on July 30, 2013. Claimant and her spouse, [REDACTED], appeared and testified. The Department was represented by [REDACTED] and [REDACTED].

ISSUE

Did the Department of Human Services properly deny Claimant's March 28, 2013 Medical Assistance (MA) application due to excess assets?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On March 28, 2013, Claimant submitted an application for Medical Assistance (MA) for retroactive coverage back to December 1, 2012. Claimant is a recipient of both Retirement, Survivors, Disability Insurance (RSDI) and Supplemental Security Income (SSI) with a disability onset date of November 30, 2011. [REDACTED] is a recipient of Retirement, Survivors, Disability Insurance (RSDI) with an initial entitlement date of March 1, 2004.
- (2) On March 29, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated the application was denied due to excess assets. The notice specifically identified a residential property, which was not the primary residence. That property was in foreclosure and the redemption period on the property ran through May 2013.
- (3) On April 8, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by 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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

During this hearing Claimant did not dispute technical ownership of the property through May 2013. ██████████ testified that the property at issue: had a ██████████ mortgage on it; was listed for sale approximately 1 year 9 months ago with permission of the mortgage holder with a price of ██████████; was valued at ██████████; and was still for sale with a price of ██████████. The Department did not have any information on the time line or values and did not raise any objection to the evidence.

Department of Human Services Bridges Eligibility Manual (BEM) 400 Assets (2013) provides the following provisions:

NON-SALABLE ASSETS

SSI-Related MA Non-Salable Assets

Give the asset a ██████████ 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 salable 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.

**HOMES AND REAL PROPERTY
FIP, SDA, RCA, SSI-Related MA and FAP**

This section is about the following types of assets:

- Real property.
- Mobile homes.
- Life estates and life leases.

**Real Property and Mobile Home Value
FIP, SDA, RCA, SSI-Related MA and FAP**

To determine the fair market value of real property and mobile homes use:

- Deed, mortgage, purchase agreement or contract.
- State Equalized Value (SEV) on current property tax records multiplied by two.
- Statement of real estate agent or financial institution.
- Attorney or court records.
- County records.

FIP, SDA, RCA

Use the fair market value.

SSI-Related MA and FAP

The value is the equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision.

Liens must be filed with the register of deeds or other appropriate agency.

Deeds are considered legal if they are signed and notarized. It does not have to be registered with the registrar of deeds to be a legal document.

Note: In Michigan, a lien on a mobile home is on record with the Secretary of State. If the mobile home is on land the person owns, the lien may also be recorded with the land deed.

Based on the evidence submitted at this hearing Claimant and James would be evaluated for eligibility under SSI-Related MA. BEM 400, cited above, provides that the property at issue might have been incorrectly valued during the eligibility determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department has not shown that Claimant's March 28, 2013 Medical Assistance (MA) application was properly denied due to excess assets.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimant's March 28, 2013, application be reinstated and reprocessed to include gathering sufficient information to properly value the property at issue in accordance with BEM 400.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 07/31/2013

Date Mailed: 08/01/2013

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 receipt 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 effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

201341561/GFH

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

GFH/sw

cc:

