

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-47694
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: July 24, 2013
County: Wayne (82-35)

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 July 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's August 29, 2012, Medical Assistance (MA) application, with an application for retroactive MA coverage to May 2012?

FINDINGS OF FACT

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

1. On August 29, 2012, Claimant applied for MA coverage and retroactive MA coverage to May 2012.
2. On February 12, 2013, the Department denied the application due to excess assets.
3. On April 25, 2013, Claimant's AHR filed a request for hearing disputing 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 applied for MA on August 29, 2012, seeking retroactive coverage to May 2012. The Department denied the application in a February 12, 2013, Notice of Case Action because Claimant's assets exceeded the \$2,000 asset limit for the MA program. Asset eligibility is required for MA coverage. BEM 400 (July 2012), p. 4. In determining that Claimant's assets exceeded the MA asset limit, the Department testified that it relied on Claimant's cash assets in his checking account for the months from May 2012 to August 2012.

At the hearing, the Department testified that Claimant was subject to a \$2,000 asset limit. The AHR contended that a \$3,000 asset limit was applicable to Claimant's MA group. In this case, Claimant was seeking SSI-related MA, which is MA available to disabled individuals. See BEM 105 (October 2010), p. 1. Claimant, who credibly testified that he was married, has an MA fiscal and asset group size of two. BEM 211 (January 2012), pp. 5-6. The asset limit for SSI-related MA for an asset group of two is \$3,000. BEM 400, p. 5. Thus, the Department applied the incorrect asset limit when calculating Claimant's asset eligibility.

The AHR also contended that the Department erred in calculating Claimant's asset eligibility when it did not consider Claimant's asset value on a monthly basis. In concluding that the value of Claimant's checking account was greater than \$3,000 for each of the months at issue, the Department testified that it considered Claimant's ending balance for each of the checking account statement periods presented which covered the periods April 15, 2012, to May 15, 2012; May 16, 2012, to June 15, 2012; June 16, 2012, to July 14, 2012; and July 15, 2012, to August 15, 2012. Department policy provides that 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 (emphasis added). By basing its asset eligibility calculation on the ending balance for the end date of each of the checking account statement period rather than the lowest balance for each month being tested as required by policy, the Department did not act in accordance with Department policy.

Although the Department contended at the hearing that it was not provided Claimant's bank statement for the period between August 16, 2012, and September 15, 2012, the AHR established that it included this bank statement in a fax sent to the Department on December 3, 2012, with the other bank statements which were in the Department's

possession. Therefore, the Department had all of the bank statements to review Claimant's monthly asset status through August 2012.

Finally, in determining the value of a client's assets, the Department may not count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 15; BEM 500 (April 2012), p. 4. Each of the checking account statements showed that deposits for Claimant's unemployment benefits were made into the checking account. Unemployment benefits are income. BEM 503 (July 2012), pp. 25-26. Thus, the Department did not act in accordance with Department policy when it failed to exclude this income in the calculation of Claimant's monthly checking account value.

The AHR also argued that the Department should exclude other deposits, specifically a \$260 deposit on May 3, 2012; a \$1,475 deposit on May 4, 2012; a \$1,700 deposit on May 14, 2012; a \$1,788 deposit on July 2, 2012, which it characterized as loans from Claimant's family members to Claimant. However, bona fide loans are excluded from the calculation of a client's income and are excluded from the calculation of a client's asset value *only* in connection with the Family Independence Program (FIP). BEM 500, pp. 6-7; BEM 503, p. 18; BEM 400, pp. 13-14. It follows that loan proceeds *are* considered in the calculation of a client's asset eligibility.

Because the Department applied the incorrect asset limit, did not consider the lowest balance for each month considered, and did not exclude unemployment benefit income from the calculation of the asset value, the Department did not act in accordance with Department policy when it concluded that the value of Claimant's assets for May 2012, June 2012, July 2012, and August 2012 exceeded the asset limit and denied Claimant's MA application and retroactive MA application 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 did not act in accordance with Department policy when it denied Claimant MA coverage for May 2012, June 2012, July 2012, and August 2012 ongoing based on excess assets.

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. Reregister Claimant's August 29, 2012, MA application and retroactive MA application for coverage to May 2012;
2. Begin reprocessing Claimant's applications in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with MA coverage he is eligible to receive from May 2012 ongoing; and

4. Notify Claimant and his AHR of its decision in accordance with Department policy.



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

Date Signed: August 6, 2013

Date Mailed: August 7, 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

ACE/pf

cc:

