

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

IN THE MATTER OF:



Reg. No.: 2014-13308
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: December 19, 2013
County: Branch County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, a telephone hearing was held on December 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Attorney, [REDACTED] the Claimant, and [REDACTED] husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager, and Teresa Sharrar, Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's July 26, 2013 Medicaid application 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. On July 26, 2013, the Claimant applied for Medicaid.
2. On August 22, 2013, a Notice of Case Action was issued to the Claimant stating Medicaid was denied because the countable assets are higher than allowed for this program.
3. On November 8, 2013, the Claimant filed a request for hearing contesting the Department's determination.

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.

Additionally, asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. Special asset rules are utilized for certain married clients in a hospital and/or longer term care facility and waiver patients. The SSI-Related Medicaid asset limit is \$2,000 for an asset group of one. BEM 400 (1/1/2013) pages 5-7.

In the appeal of the August 22, 2013 denial of the July 26, 2013 Medicaid application, the Claimant notes the Department's failure to issue a DHS 4586 Asset Transfer Notice to the Claimant with an October 2010 Medicaid approval. The evidence documents that on October 22, 2010, the computer system generated Notice of Case Action and Asset Transfer Notice were sent to the Claimant at an address on Michigan Ave. (Exhibits 2 and 5) It appears that the Department was aware that the Michigan Ave. address was no longer correct for the Claimant because a handwritten Medical Program Eligibility Notice of the Medicaid approval was also sent to the Claimant at her address on Briggs Rd. on October 22, 2010. (Exhibit 3) It is unclear why only the approval notice was re-issued to the correct address.

The Asset Transfer Notice was related to the October 22, 2010 Medicaid approval determination. Specifically, this notice advises that the Claimant's countable assets must be at or below the Medicaid asset limit of \$2,000 at the end of one year. (Exhibit 5) The October 22, 2010 Asset Transfer Notice was not related to any future application for Medicaid.

However, the Department has not submitted any evidence of the asset determination for the Claimant's July 26, 2013 Medicaid application. Without evidence of what the Claimant's countable assets were or how much they total, the evidence is not sufficient to establish that the denial of the Claimant's July 26, 2013 Medicaid application due to excess assets was in accordance with Department policy.

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 .
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's July 26, 2013 Medicaid application due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-instate the Claimant's July 26, 2013 Medicaid application and re-determine eligibility in accordance with Department policy.
2. Notify the Claimant/Claimant's Authorized Representative of the determination in accordance with Department policy.

/s/ _____
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 8, 2014

Date Mailed: January 8, 2014

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.

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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

CL/hj

cc:

