

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-15353
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 6, 2014
County: Wayne (82-82)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 February 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA)?

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 September 23, 2013, Claimant applied for MA.
2. On September 26, 2013, the Department sent Claimant a Notice of Case Action denying her application.
3. On November 26, 2013, Claimant 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), 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, in the September 26, 2013, Notice of Case Action, the Department denied Claimant's MA application because the value of her assets exceeded the asset limit under the MA program.

The asset limit for SSI-related MA, which is available to aged, disabled or blind individuals, for an asset group of one (Claimant) is \$2,000. BEM 400 (July 2013), p. 7; BEM 211 (July 2013), pp. 6-7; BEM 105 (July 2013), p. 1. 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. 6. The "comments from your specialist" section of the September 26, 2013, Notice of Case Action references Claimant's second vehicle, a van with a value of over \$8,000, and her second home as placing the value of her assets over the \$2,000 asset limit.

In determining asset eligibility for SSI-related MA where a client has more than one motor vehicle, the Department excludes the value of the motor vehicle *owned* by the group that has the highest equity value. BEM 400, p. 36. Equity value is the fair market value minus the amount legally owed in a written lien provision. BEM 400, p. 35.

In this case, Claimant listed in her application that she had a leased 2011 Lincoln and included with the documentation submitted with her application the registration for a 2003 Chevrolet van owned by her deceased husband. Because the Lincoln was a leased vehicle, it was not owned by Claimant and would not be considered in determining her asset eligibility. Furthermore, as a leased vehicle, it had no equity value. See BEM 400, p. 38. The remaining vehicle, the Chevrolet van, was the only motor vehicle owned by Claimant and, as such, should have been an excluded asset. Therefore, the Department did not act in accordance with Department policy to the extent that it relied on the value of Claimant's van to find that Claimant's assets exceeded the asset limit.

The Department also referenced the fact that Claimant owned a second home in determining that she was not asset-eligible for MA. The AHR acknowledged that Claimant had a second home but testified that the home was income-producing property that was being rented by Claimant's son. The AHR produced a letter signed by

Claimant's son indicating that he rented the home for \$650 monthly and testified that the note was included with Claimant's application. The Department denied that the note was included with the application. However, the Department acknowledged that it did not have the September 23, 2013, application Claimant had originally submitted and had asked for a copy of Claimant's application and supporting documents from the AHR in connection with the hearing request. Furthermore, the Department acknowledged that Claimant identified the second home as "income-producing" in her application, even if she did not list the rental income in her income. These facts were sufficient to establish that Claimant identified the second home as income-producing property.

For SSI-related MA purposes, the value of real property owned by a client is its equity value. BEM 400, p. 29. The Department excludes the client's homestead when the client's equity in the homestead exceeds \$536,000. BEM 400, pp. 30-31. Only one homestead is excluded per asset group. BEM 400, p. 31. The equity value of any remaining real property is the fair market value less the amount legally owed in a written lien provision. BEM 400, p. 29. If real property is income-producing, the Department must exclude up to \$6,000 of equity in the income-producing real property if it produces annual countable income equal to at least 6 percent of the asset group's equity in the asset. BEM 400, p. 34. Countable income is total proceeds minus actual operating expenses. BEM 400, p. 34.

There was no evidence presented by the Department in this case that it calculated the equity value of Claimant's second home or assessed whether this value should be reduced by any amounts permitted by policy based on the fact that it is income-producing real property. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's MA application on the basis that the value of the second home exceeded the asset limit.

During the hearing, the Department also presented evidence concerning Claimant's asset eligibility based on the value of her checking and savings accounts. Cash, including savings and checking accounts, are assets. BEM 400, p. 1. The AHR acknowledged that Claimant was not asset-eligible for MA based on her checking and savings account balances for any of the three retro months prior to her September 23, 2013, MA application, but she contended that the value of her savings and checking accounts did not exceed the asset limit for September 2013. She noted that the Department had not asked for any verification of Claimant's checking and savings balances for September 2013, and none was included with the application. The Department acknowledged that there was no evidence that a verification checklist requesting such information was sent. In the absence of any evidence to support a finding that the value of Claimant's checking and savings account exceeded the asset limit, the Department could not rely on the value of the accounts to establish that Claimant was asset-ineligible for MA.

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 did not act in accordance with Department policy when it denied Claimant's MA application

based on the value of the motor vehicle and failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied her MA application based on the value of the second home or her bank accounts.

DECISION AND ORDER

Accordingly, the Department's decision is 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. Reregister Claimant's September 23, 2013, MA application;
2. Reprocess the application;
3. Notify Claimant and the AHR of its decision; and
4. Provide Claimant with MA coverage she is eligible to receive from September 1, 2013, ongoing.



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

Date Signed: February 10, 2014

Date Mailed: February 10, 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;

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- 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:

