

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

IN THE MATTER OF:

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Reg. No.: 2014 2150
Issue No(s) : 2002
Case No.: ██████████
Hearing Date: January 15, 2014
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in person hearing was held on January 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Attorney, ██████████, and a witness, ██████████ the Claimant's brother. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payments Worker, and ██████████ FIM.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Program (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

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

1. On July 30, 2013 the Claimant's Authorized Hearing Representative applied for received:
 FIP FAP MA AMP SDA CDC benefits. The Claimant also submitted a retroactive medical assistance application for June 2013. Exhibit 1

2. Claimant was required to submit requested verification by August 16, 2013. Exhibit 2.
3. The Claimant through her attorney submitted some of the requested verification information and the Department had additional information submitted with another prior application for medical assistance benefits. Exhibit 3 and Claimant Exhibit 1.
4. On June 1, 2013, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits.
4. On September 20, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action. Exhibit 3
5. On September 25, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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, 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.

In this case the issue is whether the Department properly denied the Claimant's application for Medical Assistance based upon the verifications it received as part of the verification process and responses by the Claimant's attorney. The Claimant is in a long term care facility, and as part of the review of the application the Department is required to determine whether the Claimant was eligible as of the application date with respect to the asset limit requirements established in BEM 400 (7/1/13). At the time of the application the asset limit for the Claimant was \$2,000. To that end, in an effort to establish whether the Claimant's assets precluded her from being deemed eligible for medical assistance, the Department sent the Claimant's attorney a Verification Checklist dated August 6, 2013 due August 16, 2013. The Verification Checklist requested the following:

Please submit a complete land contract.
Please also submit a statement from [REDACTED]
[REDACTED] showing face and cash values as of
2013, and verify ownership.

Please verify what, if anything, was done with the \$10,000 savings bond dated 8/2000.

Please verify with receipts and canceled checks what was done with \$40,900 check #5100 on 5/28/13, \$5800 check #5099 on 5/23 and withdrawals of \$32,524 on 6/06 and \$21,000 on 6/13, per [REDACTED] statements.

Verify brokerages of \$46,743.73 deposited on 5/09, \$21,785.95 deposited on 5/29 and \$22,023.50 deposited on 6/06 before and after closing.

Also verify the \$10,000 deposit from [REDACTED] debt and what was done with it.

Please verify any other assets that you have in your name and any other income you are receiving.

The Claimant's attorney responded on August 6, 2013 to the Department as follows:

I reviewed your questions and most of them were answered by documents filed with the original application or in subsequent emails. Please also review the attached documents.

- A) The land contract for the [REDACTED] house was previously submitted but I have included it in the attached packet, since it is only four pages.
- B) The only available information regarding the Manufacturers Life policy is found on pages 5-8 of the packet. It is the same policy as the [REDACTED] policy that was transferred to [REDACTED]. [REDACTED] bought out [REDACTED]. If you compare the policy numbers of the [REDACTED] documentation to the first page of the [REDACTED] documentation, you will see that the policy numbers match, except that [REDACTED] added a "2" at the end of the [REDACTED] policy.
- C) The HH bond was cashed in for \$10,000.00 and deposited in [REDACTED] as reflected on pages 9-12.
- D) The transactions you enquire about can be explained very simply. All of [REDACTED] money, including the HH bond, was transferred in [REDACTED]. [REDACTED] most of it in [REDACTED]. [REDACTED] The money was then transferred to accounts in the names of [REDACTED]. One account had \$47,600.00 as reflected on Page 8 of the June 28, 2013 fax to DHS. This account is the fund for the Promissory Note. The other account, having a balance of \$54,457.62 holds the rest of the divested funds. For example, the May 28, 2013 transactions for \$40,900.00 and \$6,700.00 went in to [REDACTED] owned by [REDACTED] [REDACTED] for the promissory note. I will go over the transactions with my client and let you know if any of the transactions in question were not divestments.

Please review the above information and let me know if you still have any questions. If this is not satisfactory, I request that you let me know by Friday August 9, 2013 or extend the due date for the verifications for 10 days beginning when you inform me of what verifications are still needed. (Exhibit 3)

In this case the Department attempted to determine the Claimant's assets as of the date of the Claimant's July 30, 2013 application to see if the Claimant was eligible or whether the Claimant was over the asset limit of \$2,000.

The Department specifically asked the Claimant to provide the beginning and ending balances of two brokerage accounts. This request was necessary so the Department could determine if the accounts were closed, and so the funds in the account could be traced to determine how they were disposed of. No information was provided with regard to the brokerage accounts other than that they were deposited in the Claimant's account. Documentary evidence to establish the beginning balance, the closure dates, if any, and amount of and where the proceeds went was not provided.

Reference to deposits from Claimant's brokerage accounts does appear on the bank statements provided; however, no beginning balances of the brokerage accounts was provided, or whether the amounts removed from those accounts were fully accounted for and how they were disposed of. The request for the information regarding the brokerage accounts was clear and unambiguous.

It appears that the Claimant executed a promissory note in the amount of \$47,600 on May 6, 2013 to the borrower [REDACTED] and evidence of the note was provided to the Department as part of a verification on an earlier application. Also provided was a bank account statement ending July 15, 2013 with [REDACTED] containing \$47,600 in [REDACTED] names. This bank statement information does account for some of the Claimant's money.

No explanation or verification was provided regarding the specific inquiry raised by the Department as to disposition of the \$10,000 proceeds from the saving's bond and four other specific requests by the Department with reference to various checks written on Claimant's account, referred to by check number, the specific check amounts and the dates they were issued. This request for verification was clear and unambiguous.

The Claimant's attorney in his August 6, 2013 response explained generally that the balance of the Claimant's funds went into another account and was divested stating, "The other account, having a balance of \$54,457.62 holds the rest of the divested funds." A review of the documents provided as evidence at the hearing does not disclose that any bank statements, or an account number for this other account which received the \$54,457.62, were provided.

The Claimant's [REDACTED] testified that the funds in the brokerage accounts were then withdrawn from the Claimant's accounts and deposited to other accounts, however the

information provided did not establish where the proceeds from the brokerage funds were ultimately deposited, i.e. the account numbers were not provided or the specific amounts so the brokerage funds could be accounted for. The Claimant's attorney provided a written explanation on August 6, 2013 but did not provide the account information to show where the funds withdrawn from Claimant's account were deposited except for the \$47,600 statement for the [REDACTED] [REDACTED] [REDACTED] [REDACTED] account. The explanation does not provide account numbers as requested for the other \$54,457.62 in funds. The issue still remains as to the amount held by the Claimant in brokerage accounts, when the accounts were closed and where the proceeds wound up, how and where they were disposed of. Likewise the savings bond in the amount of \$10,000 was deposited into the Claimant's account but no tracking of where the \$10,000 generated by the bond was deposited subsequently.

As regards the document offered by the Claimant at the hearing involving the faxing of a document setting out the [REDACTED] accounts associated with the Claimant and her brother by account number dated June 18, 2013, the Department contended that it never received the fax. The Department also searched its case file at the hearing and did not locate the material. The Claimant's attorney was unable to confirm by fax confirmation that the fax was sent to the Department. A yellow post-it note with a date stamp and hand written phone number is insufficient to establish that it was faxed to or received by the Department.

In conclusion, it appears clear that the Department sought information as to beginning and ending balance for Claimant's brokerage accounts and did not receive it. This information was necessary to determine the totality of the cash assets the Claimant had to begin with and whether they were accounted for and/or disposed of. Without this information there was no way the Department could determine the Claimant's actual cash asset amount remaining and available to her on the date of the application. The Department never made such a determination as it did not have the required information to make an asset determination because the requested verifications were not provided to the Department.

Based up a review of the evidence presented and the testimony of the parties, it is determined that the Department properly denied the application. This Decision was also influenced by the fact that very specific questions were not responded to and no actual request for an extension was made by the Claimant's representative other than to suggest that the matter be extended when the Department informed the Claimant's attorney what verifications were still needed. The verifications requested were clear and unambiguous and were not responded to, thus the question by Claimant's attorney regarding what further verifications, if any, were still needed was not reached by the Department.

The Claimant may reapply of Medical Assistance benefits at any time.

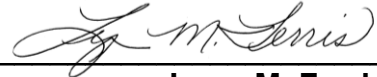
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Department

acted in accordance with Department policy when it denied the Claimant's application for failure to provide verification information as requested.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 6, 2014

Date Mailed: February 6, 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.

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

2014-2150/LMF

LMF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]