

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-28268
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: March 19, 2014
County: Jackson

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 March 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) and Medicaid (MA) benefits?

FINDINGS OF FACT

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

1. Claimant was an on-going recipient of FAP and MA.
2. In response to a Redetermination for Medicaid and Medicare Cost Share, Claimant reported that he and his sister jointly owned a home at [REDACTED], and he was living in a home his mother owned prior to her death at [REDACTED]. (Exhibit 1 Pages 6-9.) The two properties are contiguous.
3. The home at [REDACTED] has a taxable value of \$ [REDACTED] putting its presumed cash value at \$ [REDACTED] (Exhibit 1 Page 4.)
4. The mother's former home at [REDACTED] is owned jointly by Claimant and his two sisters, and has a taxable value of \$ [REDACTED] putting its presumed cash value at \$ [REDACTED] (Exhibit 1 Page 5.)

5. On February 11, 2014 the Department mailed a Notice of Case Action (NCA) informing Claimant that his Medicare Savings Program (MSP) was closed because his countable assets were higher than allowed for the program. (Exhibit 1 Pages 10-12.)
6. Claimant requested a hearing on February 27, 2014.

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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

BEM 400 (2/1/14) details the asset limits for various benefit programs. The asset limit for FAP is \$5,000. *Id* at 5. The asset limit for an asset group of one in the MSP is \$7,080. *Id* at 7. Countable assets cannot exceed the asset limit. *Id* at 1.

BEM 400 at page 1, "Assets mean cash, any other personal property and real property." At page 8, "An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset."

When considering jointly owned assets for FAP eligibility, BEM 400 at 10 states:

"An asset is unavailable if an owner **cannot** sell or spend his share of an asset:

"Without another owner's consent, and

"The other owner is not in the asset group, and

"The other owner refuses consent." (Emphasis in origina.)

Claimant testified that he owns a residence with his sister. He is not sure if she would agree to sell it or not. The testimony does not persuade the undersigned that "the other owner refuses consent." Therefore, the property at [REDACTED] is included for purposes of determining eligibility. His share of the property is \$ [REDACTED]. That exceeds the limits allowed for eligibility in the FAP and the MSP.

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 denied Claimant's application for FAP and MA.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 21, 2014

Date Mailed: March 21, 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

DTJ/las

cc:

