

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13300
Issue No.: 2002
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 30, 2014, from Detroit, Michigan. Participants included [REDACTED] as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly requested verification of an alleged asset after a previous administrative hearing decision ordered DHS to determine Medical Assistance (MA) eligibility based on Claimant being asset-eligible.

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 [REDACTED], Claimant applied for MA benefits including retroactive MA benefits from 9/2012.
2. Claimant's application stated that he received an inheritance within the past five years.

3. On [REDACTED], the undersigned administrative law judge ordered DHS to process Claimant's MA eligibility subject to the finding that Claimant was asset-eligible since 9/2012 (see Exhibits 2-4).
4. DHS failed to comply with the administrative decision order.
5. On [REDACTED], DHS mailed a Verification Checklist (Exhibit 1) requesting proof of Claimant's inheritance.
6. On [REDACTED], DHS denied Claimant's MA application for the reason that Claimant failed to comply with a verification request.
7. On [REDACTED], Claimant's AHR requested a hearing to dispute the MA application denial.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant's AHR requested a hearing to dispute a denial of MA benefits. It was not disputed that the reason for denial was Claimant's failure to verify an inheritance.

Assets must be considered in determining eligibility for FIP, SDA, RCA, LIF, G2U, G2C, SSI-related MA categories, AMP and FAP. BEM 400 (7/2013), p. 1 DHS is to verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 55.

The above policy authorizes DHS to make requests which potentially affect a client's eligibility; the authority is not unlimited. In the present case, DHS requested verification of an inheritance received by Claimant. The request was based on Claimant's application disclosure that he received an inheritance in the five year period before applying for MA benefits. DHS contended that verifying Claimant's inheritance is required to determine Claimant's asset eligibility.

For clients seeking payment of long-term care and/or home health services and/or home help services, divestment may be a factor (see BEM 405). For such cases, DHS has some authority to request verification of assets in the five years prior to applying for benefits. Divestment is not a factor in the present case.

The present case involves three months of retroactive MA benefits. DHS is allowed to verify assets from the retroactive MA benefit period, three months before the application date. Claimant's asset eligibility for those months was addressed in an administrative hearing decision dated [REDACTED]. That hearing decision found that Claimant was asset-eligible for the retroactive MA benefit period. DHS was ordered to process MA benefits accordingly.

Some consideration was given as to whether the previous administrative hearing decision improperly determined Claimant to be asset-eligible rather than adopting a narrower finding. This consideration is made despite DHS circumventing the appellate process to dispute the previous administrative order. During the administrative hearing dated [REDACTED], DHS was given an opportunity to establish that Claimant's reported inheritance directly affected Claimant's MA eligibility from 9/2012 or later. DHS failed to present any evidence that proof of inheritance affected Claimant's MA benefit eligibility. It is found that the administrative order dated [REDACTED] was valid and it is further found that DHS failed to comply with the order.


The local office has 10 days from the date an administrative decision was mailed from MAHS to implement the decision and order. BAM 600 (7/2013), p. 8. DHS will be ordered for a second time to comply with the administrative order dated [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS perform the following actions:

- (1) process Claimant's MA benefit application dated 12/20/12, including the retroactive MA request from 9/2012, subject to the following findings:
 - a. Claimant was asset-eligible from 9/2012 based on the administrative decision dated [REDACTED]; and
 - b. DHS improperly denied Claimant's application due to an alleged Claimant failure to verify inheritance; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/19/2014

Date Mailed: 2/19/2014

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

CG/hw

cc:

