

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201430540
Issue No: 2001
Case No: [REDACTED]
Hearing Date: April 9, 2014
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon a request for a hearing submitted by L & S Associates to the Department of Human Services (Department) on February 26, 2014. After due notice, a telephone hearing was held on April 9, 2014. [REDACTED], a representative with [REDACTED], appeared by three-way conference call and provided testimony on Claimant's behalf. The Department was represented by [REDACTED], a family independence manager, and [REDACTED], a family independence specialist, both of whom are with the Department's Jackson County office.

ISSUE

Whether the Department properly denied Claimant's application for Medicaid due to excess assets?

FINDINGS OF FACT

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

1. On January 31, 2013, [REDACTED] submitted an application for MA benefits on Claimant's behalf. In the application, Claimant reported owning one vehicle, a [REDACTED]. However, during her subsequent interview with her Department case specialist, Claimant reported also owning a [REDACTED], indicating that it was her primary vehicle.
2. On February 25, 2013, the Department obtained verification from the Secretary of State that Claimant had the following vehicles registered in her name or her husband's name: (i) 1997 Buick (Claimant's name); (ii) 1993 Chevrolet motorhome valued at \$ [REDACTED] (Claimant's name); and

(iii) a 1990 Plymouth Voyager (Claimant's husband's name) valued at \$ [REDACTED] (Department Exhibit 2, pp. 6-14)

3. On February 7, 2013, the Department denied Claimant's January 31, 2013 MA application for failure to verify countable assets.
4. Because the Department failed to properly notify Claimant and L & S Associates of the Department's February 7, 2013 determination, in a Hearing Decision mailed on November 27, 2013, Administrative Law Judge Kevin Scully reversed the Department's February 7, 2013 denial and ordered the Department to reprocess Claimant's January 31, 2013 application in accordance with Department policy. (Department Exhibit 1)
5. On February 6, 2014, the Department reprocessed Claimant's January 31, 2013 MA application and determined that Claimant was not eligible for MA due to excess assets.
6. On February 26, 2014, [REDACTED] submitted a hearing request protesting the denial of Claimant's January 31, 2013 MA application.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the BAM, the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Department determines a client's eligibility for MA benefits based on, among other things, the client's assets. BEM 400. Effective October 1, 2011, the MA asset limit for a group size of one is \$2,000 and for a group size of two, the asset limit is \$3,000. BEM 400, pp. 4-5.

Countable assets cannot exceed the applicable asset limit. BEM 400. An asset must be available to be countable. BEM 400. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400. 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 other owner refuses consent. BEM 400.

Department policy defines "assets" to mean cash, any other personal property and real property. BEM 400, p. 1. Real property is land and objects affixed to the land such as buildings, trees and fences. Personal property is any item subject to ownership that is not real property, such as currency, savings accounts and vehicles. BEM 400, p. 1. To determine the fair market value of real property, the department must use: a deed, mortgage, purchase agreement or contract; the State Equalized Value (SEV) on current property tax records multiplied by two; a statement of a real estate agent or financial institution; attorney or court records; county records. BEM 400, p. 23.

In this case, in February 2014, the Department reprocessed Claimant's January 31, 2013 MA application. This reprocessing revealed Claimant's report that she owned a 1990 Plymouth Voyager which she characterized as her primary vehicle, as well as Claimant's acknowledgment (despite not having initially reported the information in her application) that a 1993 Chevrolet motorhome valued at \$ [REDACTED] was also registered in her name. The Department subsequently determined that Claimant's total countable assets for purposes of the MA program totaled \$ [REDACTED] resulting in the Department's denial of Claimant's application for MA benefits due to her assets exceeding the \$ [REDACTED] MA asset limit for a group size of two.

At the April 9, 2014 hearing in this matter, the Department's representative, Tony Lewis, testified that, pursuant to Department policy, the Department excluded from Claimant's countable asset determination her Plymouth Voyager as she had indicated that it was her primary vehicle. However, Mr. [REDACTED] was unable to explain the basis for the Department's determination that Claimant's total countable assets were \$ [REDACTED] when the Department only produced evidence establishing that Claimant's 1993 Chevrolet motorhome was valued at \$ [REDACTED]

Claimant's authorized representative, [REDACTED] representative [REDACTED], testified that the Department should not have instead excluded from consideration Claimant's 1993 Chevrolet motorhome because it was the vehicle with the highest value. [REDACTED] further testified that Claimant no longer owns the Plymouth Voyager. However, [REDACTED] provided no evidence of a fair market value sale of the Plymouth Voyager or that Claimant's Chevrolet motorhome was now being used as her primary vehicle. Moreover, Claimant did not attend the hearing herself and submitted no written statements that could have shed further light on this matter. Nor did Mr. [REDACTED] dispute the Department's determination of the fair market value of the 1993 Chevrolet motorhome. Rebuttal evidence of a vehicle's worth should consist of a written appraisal of the automobile's value from a disinterested knowledgeable source, such as a used car or truck dealer, a licensed mechanic, or an automobile insurance

company. See Social Security Administration Program Operations Manual System (POMS) SI 01130.200 C.5.¹

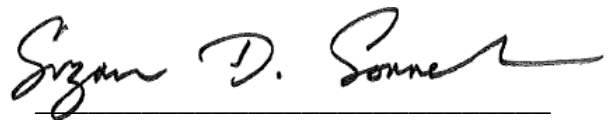
Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented during the April 9, 2014 hearing, that while the Department's only submitted evidence that Claimant's countable assets totaled \$ [REDACTED] not \$ [REDACTED] this is a distinction without a difference where Claimant was still deemed ineligible for MA for the time period in question due to excess assets. Consequently, the Department properly denied Claimant's January 31, 2013 MA application for the reason that Claimant's assets exceed the \$ [REDACTED] limit for the MA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly denied Claimant's January 31, 2013 MA application for the reason that Claimant's assets exceed the \$ [REDACTED] limit for the MA program. Accordingly, the Department's decision in this regard is therefore **UPHELD**.

It is **SO ORDERED**.



Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 11, 2014

Date Mailed: April 11, 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.

¹ This manual may be found at <https://secure.ssa.gov/apps10/poms.nsf/lrx/0501130200>.

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

SDS/hj

cc:

