

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

IN THE MATTER OF:



Reg. No.: 14-006062
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: September 10, 2014
County: Ottawa

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 September 10, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], [REDACTED] and the Claimant's attorney [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED], and Assistant Attorney General [REDACTED].

ISSUE

Did the Department properly determine the spousal protected amount for the Claimant's Medical Assistance (MA) case?

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 October 27, 2011, the Claimant reported his assets to the Department and requested a special assessment to determine the spousal protected amount.
2. The Claimant failed to report all countable assets to the Department in 2011.
3. On November 16, 2011, the Department determined protected spousal assets totaling \$27,575, based in the information available at that time.
4. On April 30, 2014, the Claimant applied for Medical Assistance (MA) and reported additional assets not reported in 2011.
5. On May 19, 2014, the Department determined that the Claimant's countable assets exceed the limit for the Medical Assistance (MA) program.
6. On June 26, 2014, the Department received the Claimant's request for a hearing, protesting the Department's failure to correct the special asset determination from 2011.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

Unless the special exception policy applies, an initial asset assessment is needed to determine how much of a couple's assets are protected for the community spouse. The Department will do an initial asset assessment when one is requested by either spouse,

even when an MA application is not made. Department of Human Services Bridges Eligibility Manual (BEM) 402 (April 1, 2014), p 1.

The Department will notify both spouses in writing of the results of the initial asset assessment whether it is done prior to, or at the time of, an MA application. The Department will use the following:

- DHS-4588, Initial Asset Assessment Notice, and
- DHS-4585, Initial Asset Assessment and Asset Record.

The above notices inform the couple of the:

- Total amount of their countable assets, and
- The protected spousal amount, and
- Their hearing rights.

The Department will send copies of all verifications or other documents used in making the initial asset assessment along with each copy of the notices. BEM 402, p 8.

On October 27, 2011, the Claimant reported his assets to the Department and requested a special assessment to determine the spousal protected amount. On November 16, 2011, the Department notified the Claimant that it had determined a protected spousal amount of \$[REDACTED]. This determination was made using the information supplied by the Claimant and the Department was not aware that the Claimant had failed to report all countable assets.

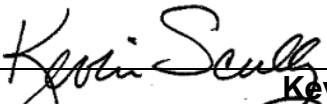
On April 30, 2014, the Claimant and his representatives reported additional countable assets and requested that the Department revise the 2011, determination of protected spousal assets.

This Administrative Law Judge finds that the Department made a determination of protected spousal assets on November 16, 2011, in accordance with policy, and gave the Claimant timely and adequate notice of this determination. This Administrative Law Judge finds that the Claimant's requests in 2014 to have the 2011 assessment revised are untimely and therefore do not fall within the jurisdiction of the Michigan Administrative Hearing System.

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 determined the Claimant's countable assets on May 19, 2014.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/18/2014**

Date Mailed: **9/18/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

