

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013550
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: January 27, 2015
County: BENZIE

ADMINISTRATIVE LAW JUDGE: Darryl 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 January 27, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant's wife, [REDACTED], and [REDACTED] of the Area Agency on Aging. Participants on behalf of the Department of Human Services (Department) included Program Manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Due to excess assets, did the Department properly deny Claimant's application for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. Claimant applied for retroactive MA benefits on May 2, 2014.
2. Due to excess assets, on July 30, 2014, the Department denied Claimant's application.
3. On July 30, 2014, the Department sent Claimant its decision.
4. On August 17, 2014, Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are found 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.

BEM 400, at p. 7, establishes a maximum of \$ [REDACTED] in countable assets for an individual applicant, and \$ [REDACTED] for a couple, to be eligible for MA. The Department prepared an Initial Asset Assessment Notice dated [REDACTED] (Exhibit 1 Pages 6-8) reporting Claimant and his spouse had countable assets of \$ [REDACTED] which exceeded the limit of \$ [REDACTED] Claimant's spouse could keep and \$ [REDACTED] Claimant could keep. Claimant's spouse engaged in an effort to spend-down the cash assets to below the limit. Within Exhibit A is a series of "Receipts for spending down" that reflect the following:

- \$ [REDACTED] for furnace service
- \$ [REDACTED] on replacement of roof
- \$ [REDACTED] for septic pumping
- \$ [REDACTED] at Menard's for home improvement
- \$ [REDACTED] for home insurance.

Claimant provided copies of the receipts to the Department, but those copies were not legible. The Department generated a letter to Claimant, but the letter was addressed to his street address instead of his Post Office Box, and the [REDACTED] Post Office will not deliver mail to a street address if the addressee has a PO Box. Claimant and his spouse were unaware there was an issue with the verification; the Department had to rely on the outdated information regarding assets. Consequently, when Claimant applied again, the application was denied.

Ultimately, fault lies with the Department. It generated notices that were mailed to an incorrect address.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The issue is whether the Claimant cooperated, or made a reasonable effort to cooperate, with the Department in determining his eligibility. The evidence is persuasive that the Claimant made a reasonable effort to provide the documents requested by the Department by the due date.

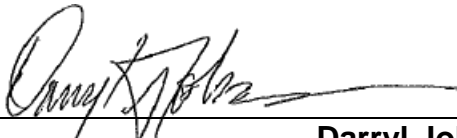
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it did not timely process the application for MA, and when it denied the application due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision regarding Claimant's MA is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's May 2, 2014, MA application;
2. Begin reprocessing the application to determine if all other non-medical criteria, are satisfied and notify Claimant of its determination; and
3. Provide Claimant with MA coverage if he is eligible to receive from May 2014 ongoing, along with retroactive months that were requested.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/28/2015**

Date Mailed: **1/28/2015**

DJ/jaf

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 48909-8139

cc:

