

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201424170
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: March 12, 2014
County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included his authorized hearing representative [REDACTED]. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED].

ISSUE

Did the Department properly deny Claimant's October 10, 2013 Medical Assistance (MA) and retroactive Medical Assistance (MA) application due to excess assets?

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 10, 2013, a Medical Assistance (MA) and retroactive Medical Assistance (MA) application was submit on Claimant's behalf.
2. On November 15, 2013, Claimant's application was denied due to excess assets.
3. On January 28, 2014, [REDACTED] submitted a hearing request.

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 dispute in this case is over August 2013. The parties disagree on the amount of Claimant's bank account and the value of his motorcycle. The Department counted the value of the bank account as \$ [REDACTED]. L&S Associates asserts the bank account should be valued at the lowest balance during the month (\$ [REDACTED] minus the deposits made during the month (\$ [REDACTED] which calculates to \$ [REDACTED] (Department Exhibit 1 pages 1-6)

The \$ [REDACTED] deposit is identified as money given to Claimant by a friend. (CLX 8 dated August 24, 2013) Department of Human Services Bridges Eligibility Manual (BEM) 503 Income, Unearned (2013) page 10 states "a donation to an individual by family or friends is the individual's unearned income."

Department of Human Services Bridges Eligibility Manual (BEM) 400 Assets (10/1/2013) page 16 under Value of Cash states the value of a bank account is the "money in the account or on deposit." BEM 400 page 20 identifies a cash exclusion of current income. "Do not count funds treated as income by a program as an asset for the same month for the same program." A text search was done of all BRIDGES Policy and the only reference to using lowest balance was found in BPB 2012-001 BRIDGES Bulletin for Medicaid. That bulletin refers to clarification in BEM 400 and states "Use the lowest checking, savings or money market account balance in the month when determining asset eligibility." These policies support the calculation asserted by L&S Associates. Based on the evidence in this record, Claimant's bank account should have been valued at \$ [REDACTED]

The Department asserts that the motorcycle should be valued at \$ [REDACTED] based on NADA valuation. (Department Exhibit 1 page 7). However, the value used in the asset budget submitted by the Department is \$ [REDACTED] (Department Exhibit 1 page 1) [REDACTED] asserts the motorcycle should be valued at \$600 in accordance with an August 24, 2013 written statement from Claimant. (CLX 8) In the alternative, [REDACTED] asserts Claimant should have been given the opportunity to support his assertion of the motorcycle's value.

The August 24, 2013 letter was submitted as part of an August 14, 2013 application for Medical Assistance (MA) and Food Assistance Program (FAP) benefits submitted before Claimant authorized L&S Associates to represent him. The August 14, 2013 application resulted in Claimant being approved for Food Assistance Program (FAP) benefits but denied for Medical Assistance (MA). Evidence in this record does not make it clear whether the August 14, 2013 motorcycle value letter was submitted with the October 10, 2013 Medical Assistance (MA) application. The \$ [REDACTED] value is used in the January 28, 2014 hearing request. It is undisputed that the Department had a copy of the letter in Claimant's active Food Assistance Program (FAP) case file.

BEM 400 Page 35 states that for SSI-Related MA the value of a vehicle is its equity value. The Certificate of Title for the motorcycle (Department Exhibit 1 page 8) shows no secured interest on record. Pages 59 & 60 describe the process for determining vehicle value. BEM 400 does state "allow the person to verify a claim that the vehicle is worth less (example: due to damage) than wholesale book value."

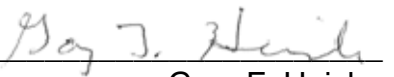
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's October 10, 2013 Medical Assistance (MA) and retroactive Medical Assistance (MA) application due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision 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. Reinstate Claimant's October 10, 2013 Medical Assistance (MA) application.
2. Process the application in accordance with Department policy including valuation of the August 2013 bank account balance and Claimant's assertion that the motorcycle is worth less than the NADA valuation.



Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 31, 2014

Date Mailed: March 31, 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

GFH/hj

cc:

