

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014 25266
Issue No(s): 2002
Case No.: [REDACTED]
Hearing Date: October 15, 2014
County: Manistee County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in-person hearing was held on October 15, 2014, from Manistee, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant's Authorized Hearing Representative (AHR). The Claimant did not appear. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

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 Medical Assistance on July 29, 2013 and requested retroactive coverage for June 2013.
2. Due to excess assets, on September 18, 2013, the Department denied Claimant's application due to excess assets.
3. In February 2013, the Claimant had received a lump sum payment for [REDACTED] for a Social Security award.

4. In December 2013, the Department sent Claimant's AHR its decision by email, and had not originally sent the September 18, 2014 Notice of Case Action to the AHR.
5. On January 30, 2014, Claimant/Claimant's AHR filed a timely 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.

Additionally, in this case the Department advised that it incorrectly included the Claimant's SSA award when determining whether the Claimant's assets exceeded the asset limit for Medical Assistance rather than excluding the SSA award, as required by Department Policy found in BEM 400 (7/1/14) pp.21 and BEM 500, (7/1/14) pp 6, which provides that lump sums and accumulated benefits are income in the month received and may be included or excluded. BEM 400 provides:

Exclude retroactive RSDI and SSA-issued SSI benefits for nine calendar months beginning the month after payment is received. Do **not** exclude purchases made with such funds including CDs and other time deposits.

This exclusion applies only to any unspent portion of the retroactive payment from RSDI or SSI. Once the money from the retroactive payment has been spent, this exclusion does not apply to the items purchased with the money, even if the nine month period has not expired.

In this instance, the Department conceded that it did not properly exclude the SSA lump sum for retroactive RSDI and, thus, denied the Claimant's application in error due to excess assets.

The Administrative Law Judge, based upon 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 the Claimant's application for Medical Assistance due to excess assets.

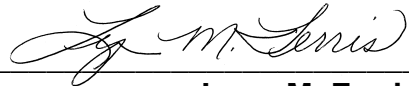
DECISION AND ORDER

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. The Department shall re-register the July 29, 2014 application and retro application, and determine the Claimant's eligibility for MA in accordance with Department policy as regards asset limits.
2. The Department shall provide the Claimant and the Claimant's AHR with notice of its decision in accordance with Department Policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 16, 2014

Date Mailed: October 17, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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.

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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

LMF/tm

cc:

