

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2014 26837
Issue No(s): 2001
Case No.: ██████████
Hearing Date: April 3, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 April 3, 2014 from Detroit, Michigan. Participants on behalf of Claimant included ██████████, Claimant's Authorized Hearing Representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Supervisor, and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA) benefits because the value of her countable assets was higher than the allowable amount?

FINDINGS OF FACT

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

1. Claimant was a resident in a long-term care facility.
2. On December 10, 2013 Claimant's husband filed an application for MA benefits.
3. On ██████████ Claimant passed away.
4. On December 18, 2013, Claimant's AHR sent correspondence to the Department requesting that an initial asset assessment be completed to determine Claimant's countable assets.

5. The December 10, 2013 application for MA benefits was either subsequently not processed or denied.
6. On December 27, 2013, Claimant's AHR filed a second application for MA benefits.
7. On December 27, 2013, the Department sent a Notice of Case Action advising that the December 27, 2013 application had been denied because Claimant's countable assets exceeded the allowable amount for the MA program.
8. On February 3, 2014, Claimant's AHR filed a Request for Hearing disputing the Department's actions.

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.

In this case, Claimant's husband filed an application for MA coverage on December 10, 2013. On December 18, 2013, Claimant's AHR sent correspondence to the Department requesting that an initial asset assessment be completed. It is unclear as to whether the December 10, 2013 application was not processed or if it was processed but denied. However, the Department's failure to process and/or decision to deny that application was not the subject of the hearing and therefore will not be considered in this decision.

Claimant passed away on [REDACTED]. On December 27, 2013, Claimant's AHR filed a second application for MA benefits. In November 2013, Claimant and her husband's assets included: real property, other than their homestead that was titled in Claimant's name which had been appraised at approximately \$56,000.00, a 1997 Ford Explorer, a checking account with a balance of \$1,994.45 and a Fidelity IRA with a balance of \$23,234.92. In December 2013, the aforementioned assets remained with the exception of the property which had been transferred to a trust.

Department policy requires that when a MA applicant in a long-term care facility is married, an initial asset assessment is to be completed to determine how much of a couple's assets are protected for the community spouse. BEM 402 (July 2013), pp. 1-2. The Department acknowledged that it failed to complete an initial asset assessment but

instead sent a Notice of Case Action advising that the application had been denied because Claimant's assets were higher than what was allowed for MA benefits.

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 failed to complete an initial asset assessment prior to denying the application filed on Claimant's behalf for MA benefits.

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. Register and reprocess the Claimant's December 27, 2013 application for MA benefits;
2. Complete an initial asset assessment and notify Claimant's AHR in writing of the Protected Spouse Amount;
2. Issue MA supplements, if any, that the Claimant was eligible to receive but did not relating to her December 2013 application; and
3. Notify the Claimant's AHR in writing of the MA decision.



JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 25, 2014

Date Mailed: April 25, 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

JAM/cl

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]