

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201428359
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: April 15, 2014
County: Oakland County DHS #3

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 on April 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly close the Claimant's Medical Assistance (MA) benefit due to excess assets?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Medical Assistance (MA) recipient.
2. On January 27, 2014, the Claimant provided the Department with a verification document showing that as of January 27, 2014, the Claimant had a savings account with a balance of \$ [REDACTED].
3. On January 27, 2014, the Department notified the Claimant that it would close his Medical Assistance (MA) benefits as of March 1, 2014.
4. The Department received the Claimant's request for a hearing on February 7, 2014, protesting the closure of his Medical Assistance (MA) benefits.

CONCLUSIONS OF LAW

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.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2013), pp 1-7.

The asset limit to receive Medical Assistance (MA) under the AD-Care category is \$2,000. BEM 400, p 7.

Medicare Set-Aside Accounts are limited to payment of qualified medical expenses as determined by the Social Security Administration. They are created when a Medicare recipient has a workers' compensation settlement. They are excluded as income and as an asset. BEM 500, p17.

The Claimant was an ongoing Medical Assistance (MA) recipient when he provided the Department with documentation showing that he is the owner of a savings account that had a balance of \$ [REDACTED] as of January 27, 2014. Based on this information, on January 27, 2014, the Department notified the Claimant that it would close his Medical Assistance (MA) benefits as of March 1, 2014, because his countable assets exceed the limit allowable by Department policy.

The Claimant testified that the source of the funds in his savings account is from a worker's compensation settlement and he provided verification of the settlement funds.

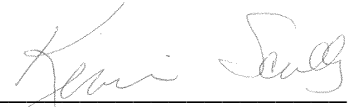
However, the Claimant failed to establish that he deposited the worker's compensation settlement into a Medicare Set-Aside Account, but instead put the funds into a savings account where they are used to pay his day to day expenses.

Therefore, the funds in the Claimant's savings account are a countable asset, and the Department has established that it properly closed the Claimant's Medical Assistance (MA) benefits due to excess assets.

DECISION AND ORDER

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 closed the Claimant's Medical Assistance (MA) benefits.

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



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

Date Signed: April 17, 2014

Date Mailed: April 17, 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

201428359/KS

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

KS/hj

cc:

