

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014586
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: November 21, 2013
County: Ottawa

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 November 21, 2013, from Lansing, Michigan. Claimant was represented by her attorney [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Program Manager [REDACTED], ES [REDACTED] and Dept Specialist [REDACTED].

ISSUE

Did the Department properly deny Claimant Medical Assistance (MA) eligibility beginning May 1, 2013, 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 August 26, 2013, the Michigan Department of Human Services Office of Legal Services/Trust and Annuities Unit issued a memorandum regarding Claimant's spouse's three trusts.
2. On August 27, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated she was denied Medical Assistance (MA) beginning May 1, 2013, due to excess assets.
3. On September 18, 2013, a request for hearing was submitted by Claimant's husband, and naming Attorney [REDACTED] [REDACTED] as an authorized hearing representative.

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 August 26, 2013, Michigan Department of Human Services Office of Legal Services/Trust and Annuities Unit memorandum addressed all three of [REDACTED], trusts. (Pages 27-34) The [REDACTED] Living Trust dated October 19, 2009, was determined to be a revocable Medicaid trust and the total value of all countable net income and assets in the principle of the trust are countable assets for [REDACTED]. The [REDACTED] Annuity Trust dated November 19, 2009, was determined to be an irrevocable Medicaid trust and the total value of all countable net income and assets in the principle of the trust are countable assets for [REDACTED]. The [REDACTED] Irrevocable Trust dated September 25, 2012, was determined to be an irrevocable Medicaid trust and the total value of all countable net income and assets in the principle of the trust are countable assets for [REDACTED].

Evidence in this record shows that: the [REDACTED] Living Trust dated October 19, 2009, was determined to have an MA asset value of [REDACTED]; the [REDACTED] Annuity Trust dated November 19, 2009, was determined to have an MA asset value of [REDACTED]; and the [REDACTED] Irrevocable Trust dated September 25, 2012, was determined to have an MA asset a value of [REDACTED]. (Pages 81, 234 & 441)

The August 27, 2013, Notice of Case Action (DHS-1605) states “You are not eligible for Medicaid because your assets are more than the \$2,000 limit (\$3,000 for a couple).” (Pages 21-25)

The request for hearing (Pages 10-18) only contests use of the [REDACTED] Annuity Trust dated November 19, 2009, valued at [REDACTED] and the [REDACTED] Irrevocable Trust dated September 25, 2012, valued at [REDACTED].

There is no evidence in the record (documents or testimony) which shows Claimant is contesting the Department’s determinations about the [REDACTED] Living Trust dated October 19, 2009. This revocable trust in Claimant’s spouse’s name, with an MA asset value of [REDACTED] places Claimant’s assets above the \$3,000 asset limit for a couple.

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 denied Claimant Medical Assistance (MA) eligibility beginning May 1, 2013 due to excess assets.

DECISION AND ORDER

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

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

Date Signed: 12/10/2013

Date Mailed: 12/10/2013

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.

2014586/GFH

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/sw

cc:

