

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

IN THE MATTER OF:



Reg. No.: 14-010525-RECON
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: October 27, 2014
County: Wayne-District 18

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to Claimant's Authorized Representative's (AR) timely Request for Rehearing/Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on October 27, 2014, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was mailed on December 19, 2014.

ISSUE

Whether the Administrative Law Judge (ALJ) erred in affirming the Department of Human Services' (Department) decision that Claimant was ineligible for Medical Assistance (MA) benefits due to excess assets?

FINDINGS OF FACT

Upon a review of the entire hearing record, including the recorded testimony and evidence admitted, in addition to a review of the applicable law and policy governing the issues in this matter, this Administrative Law Judge makes the following findings of fact:

1. Findings of Fact Numbers 1 through 3 under Registration Number 14-010525 are incorporated by reference.
2. On October 27, 2014, a hearing was held resulting in a Hearing Decision that upheld the Department's closure of MA due to excess assets.

3. The Hearing Decision was mailed to the parties on November 3, 2014, under Registration Number 14-010525.
4. On November 12, 2014, the Michigan Administrative Hearing System (MAHS) received Claimant's Authorized Hearing Representative's timely written Request for Rehearing/Reconsideration.
5. On December 19, 2014, the Department's Request for Rehearing/Reconsideration was granted.

CONCLUSIONS OF LAW

At issue was whether the property Claimant listed as "real estate" on his FAP/SER application was in fact Claimant's residence and an excludable asset under the Medical Assistance program.

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. Department policies for the MA program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The Department determines a client's eligibility for MA benefits based on, among other things, the client's assets. BEM 400, p. 1. Assets mean cash, other personal property, and real property. BEM 400, p. 1. Countable assets cannot exceed the applicable asset limit of \$2,000.00 for an asset group of one or \$3,000.00 for an asset group of two. BEM 400, p. 5.

On [REDACTED], Claimant's Authorized Hearing Representative submitted an MA application on behalf of Claimant, listing an address of [REDACTED]. On April 16, 2014, the Department mailed Claimant a Health Care Coverage Determination Notice approving Claimant for Medical Assistance beginning 3/1/2014.

On May 8, 2014, Claimant submitted an application for the Food Assistance Program (FAP) and State Disability Assistance (SDA), also listing the address where he lived as [REDACTED]. Claimant listed a property at [REDACTED] under asset information as "real estate."

On May 12, 2014, the Department mailed Claimant a Verification Checklist requesting, among other things, verification of home/building. On May 12, 2014, Claimant submitted a Quit Claim Deed for [REDACTED], showing he purchased it in October, 2013.

On June 4, 2014, the Department mailed Claimant a Health Care Coverage Determination Notice closing Claimant's Medical Assistance benefits because the value of his countable assets was higher than allowed for the program.

Claimant testified that he was staying with his sister at [REDACTED] while he fixed up his house at [REDACTED]. Claimant stated he lived at [REDACTED] before he bought the property. He said he moved in with his sister when his health became bad, and had just moved back into the house at [REDACTED]. Claimant maintained he always meant to return to his house on [REDACTED].

Departmental policy excludes a homestead that an owner formerly lived in if any of the following are true:

- The owner intends to return to the homestead.
- The owner is in a Long Term Care facility, a hospital, an adult foster care (AFC) home or a home for the aged.
- A co-owner of the homestead uses the property as his home. BEM 400.

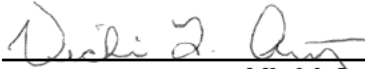
A review of the hearing reveals the only evidence that Claimant formerly lived at [REDACTED], is Claimant's testimony. Claimant submitted two applications to the Department, one in March 2014, and the second in May, 2014, each time listing [REDACTED] as his address.

It was not until the second application in May 2014, that Claimant listed the [REDACTED] property as an asset, and he labeled that asset as "real estate," not his home, or residence.

Based on Claimant's failure to list the [REDACTED] address on either application as his residence, and in fact listing the [REDACTED] address as an asset in the form of "real estate" on his FAP application, this Administrative Law Judge is not persuaded Claimant formerly lived at the [REDACTED] address. Therefore, this Administrative Law Judge finds that [REDACTED], was not Claimant's homestead and the property is not excludable.

DECISION AND ORDER

In light of the foregoing, the Hearing Decision mailed on November 3, 2014, under Registration Number 14-010525, that affirmed the Department's denial of MA benefits due to excess assets is **AFFIRMED**.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/14/2015**

Date Mailed: **1/14/2015**

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NOTICE: The law provides that within 30 days of receipt of this decision, the claimant may appeal this decision to the circuit court for the county in which he/she lives.

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