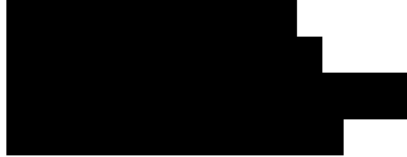


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-004896
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: May 18, 2015
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 May 18, 2015, from Detroit, Michigan. [REDACTED] testified and appeared as Claimant's legal counsel. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], supervisor, and [REDACTED], specialist.

ISSUE

The issue is whether DHHS properly denied Claimant's Medical Assistance (MA) application 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. In December 2014, Claimant was the owner of a life insurance policy with a cash surrender value of approximately \$30,000.
2. On an unspecified date in December 2014, Claimant paid \$14,147.51 to the Internal Revenue Service and \$13,970.35 to the State of Michigan.
3. On [REDACTED], DHHS denied Claimant's MA application due to excess assets.
4. On [REDACTED], Claimant's attorney requested a hearing to dispute the MA application denial.

CONCLUSIONS OF LAW

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. DHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. DHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant's attorney requested a hearing to dispute a denial of MA benefits. It was not disputed that DHHS denied Claimant's application due to excess assets.

Assets must be considered in determining eligibility for SSI-related MA categories. BEM 400 (April 2015), p. 1. The SSI-Related MA asset limit is \$2,000. *Id.*, p. 7.

DHHS determined that Claimant was asset-ineligible based on the value of what appeared to be a life insurance policy with a cash surrender value. DHHS presented a letter dated [REDACTED] (Exhibit 1) from Claimant's attorney. Claimant's attorney's letter stated that, in December 2014, Claimant converted a life insurance account into cash. Claimant's attorney's letter went on to state that Claimant sent \$14,147.51 to the IRS and \$13,970.35 to the State of Michigan.

DHHS contended that the life insurance proceeds remained a Claimant asset despite a transfer of proceeds to the federal and state treasuries. Claimant's attorney considered the transferred money to be either a tax refund or a disposed of asset. Thus, Claimant's MA eligibility hinges on whether Claimant's life insurance proceeds remained a Claimant asset, even after the money was transferred.

An asset must be available to be countable. *Id.*, p. 9. Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.* The value of the types of assets described above is the amount of the:

- Money/currency.
- Uncashed check, draft or warrant.
- Money in the account or on deposit.
- Money held by others.
- Money held by nursing facilities for residents.
- Money in a vendor pre-paid debit card (for example, Direct Express, ReliaCard, etc.)

Id., p. 16

Claimant's attorney testified that Claimant had some degree of tax liability in 2014 due to various savings bond withdrawals made in 2014. Claimant's attorney contended that

the monies sent to the State of Michigan and IRS were for estimated 2014 tax payments. It is improbable, though not impossible that a welfare applicant incurred \$28,000 in annual tax obligations. If Claimant's attorney verified that the transfers to the IRS and Michigan Treasury were for actual tax obligations, then the transfers would not be an asset because the money would no longer be available to Claimant. Claimant's 2014 tax obligation could be verified by tax documents. Claimant's attorney failed to present any tax documents verifying any tax debts. Based on the presented evidence, it is found that Claimant's money transfers to the IRS and Michigan Treasury were not intended to pay for current or past tax obligations.

Without verification of tax debts, Claimant's transfer of money to the federal and state treasuries gave Claimant substantial credits with each government. Claimant's attorney labelled Claimant's overpayment to the federal and state government as a tax refund. Claimant's attorney stated that BEM 400 excludes tax refunds as an asset, at least for nine months following the refund issuance. Thus, Claimant's attorney contended that DHHS improperly counted Claimant's "tax refund" as an asset.

Common sense dictates that a tax refund is not a refund until it is paid to a taxpayer. It was not disputed that the federal and state government hadn't issued monies to Claimant. This consideration supports finding that money held by the federal and state treasuries should not be considered a tax refund.

Traditionally, tax refunds are monies retained by the government due to a taxpayer's failure to claim income given his or her tax burdens. "Tax refund" is not an appropriate label for monies purposely overpaid to the government, presumably in a purposeful attempt by someone to become MA asset-eligible. It is found that Claimant's monetary transfers to the IRS and Michigan Treasury were not tax refunds.

Claimant's attorney conceded that Claimant could still access any overpayment by completing a form; this is not very different from making a withdrawal from a bank. If the money left over from Claimant's 2014 tax payment remained potentially available to Claimant, it is properly counted as an asset. As noted above, DHHS is to count money held by others as a countable asset.

Based on presented evidence, it is found that Claimant's \$28,000+ overpayment to the IRS and Michigan Treasury remains a Claimant asset. Therefore, it is found that Claimant assets exceeded the \$2,000 asset limit and that DHHS properly denied Claimant's MA application due to excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS properly denied Claimant's MA application due to excess assets.

The actions taken by DHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/21/2015**

Date Mailed: **5/21/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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.

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 48909-8139

cc:

