

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-004988  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: May 19, 2015  
County: Ingham

**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, telephone hearing was held on May 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED] as hearings facilitator.

**ISSUE**

Did the Department of Health and Human Services (Department) properly deny the Claimant's application for the Medicare Savings Program based on excess countable 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 February 10, 2015, the Department received the Claimant's application for Medicare Savings Program benefits.
2. The Claimant possesses an annuity with a cash surrender value of \$ [REDACTED]
3. On March 20, 2015, the Department notified the Claimant that her application for Medicare Saving Program had been denied.
4. On March 26, 2015, the Department received the Claimant's request for a hearing protesting the denial of Medicare Saving Program benefits.

## CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The 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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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, 2014), pp 1-7.

For Medicare Savings Programs (BEM 165) the asset limit for a group of two is \$10,750. Department of Health and Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2015), p 7.

On February 10, 2015, the Claimant applied for Medicare Savings Program benefits. The Department determined that the Claimant possesses an annuity with a case surrender value of \$ [REDACTED]. On March 20, 2015, the Department denied Medicare Savings Program benefits based on the Claimant's countable assets.

The Claimant argued that the cash surrender value does not take into account penalties and taxes, or the negative effect that cashing in her annuity would have on other benefits that she receives.

This Administrative Law Judge finds that the Department properly determined the countable value of the Claimant's annuity and applied it towards her eligibility for the Medicare Savings Plan because BEM 400 does not account for the effect cashing in an annuity has in other areas of the Claimant's finances when determining countable value.

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 the Claimant's application for Medicare Savings Program benefits based on her countable assets.

**DECISION AND ORDER**

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



Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/28/2015**

Date Mailed: **5/28/2015**

KS/las

**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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

