

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-010740
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: August 12, 2015
County: MARQUETTE

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included his Attorney [REDACTED] an of the [REDACTED] and Claimant's son [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist (ES) Hurdman, Program Manager [REDACTED] and Assistant Attorney General [REDACTED].

ISSUE

Did the Department properly deny Claimant's March 31, 2015 Medical Assistance application on April 15, 2015?

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 March 31, 2015, the [REDACTED] submitted a Medical Assistance application, including retroactive coverage, on Claimant's behalf. Affidavits were submitted from Claimant and his son regarding the Wells Fargo, joint bank account number 289707366. (Department's Exhibit 1, pages 12 & 13).
2. On April 15, 2015, the Department issued a Health Care Coverage Determination Notice (DHS-1606) which stated Claimant was not eligible due to excess assets.
3. On June 9, 2015, [REDACTED] of the [REDACTED] submitted a request for hearing.

4. On July 1, 2015, requested guidance from the Department's MA Policy Office regarding the account. The affidavits were not submitted to the Policy Office.
5. On July 8, 2015, the Department's MA Policy Office responded to the inquiry with a quote from Bridges Administration Manual (BAM) 400, "Count the entire amount unless the person claims and verifies a different ownership. Then each owner's share is the amount they own."

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.

The [REDACTED] joint bank account number [REDACTED] is the reason this application was denied. The Department's denial is based on assigning half of the account balance to each Claimant and his son. Half of the account balance placed Claimant over the asset limit so the Department denied Claimant's application. Bridges Administration Manual (BAM) 400 Assets, states in part:

Overview of Asset Policy

Consider both of the following to determine if an asset is countable, and how much to count:

Availability:

See **Available in this item**.

See **Jointly Owned Assets** in this item.

See **Non-Salable Assets** in this item.

See **Exclusions** in this item.

An asset is countable if it meets the availability tests and is **not** excluded.

MA ASSET ELIGIBILITY

G2U, G2C, RMA, and SSI-Related MA Only

Asset eligibility is required for G2U, G2C, RMA, and SSI-related MA categories.

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested.

SSI-Related MA Asset Group

SSI-Related MA Only

See BEM 211, MA GROUP COMPOSITION.

JOINTLY OWNED ASSETS

Joint Cash and Retirement Plans

FIP, SDA, G2U, G2C, RMA, SSI-Related MA Only

This section applies to the types of assets listed under **CASH and RETIREMENT PLANS** in this item.

Count the entire amount **unless** the person claims and verifies a different ownership. Then, each owner's share is the amount they own.

The affidavits submitted by Claimant and his son assert that the funds in the account are owned solely by [REDACTED]. Claimant's position is that the account is not countable as an asset for Claimant because he does not have any ownership of the funds in the account.

During this hearing the Department argued that the funds in the account were available to Claimant, so they are countable. That argument fails to take into account the fact that BAM 400 is only applicable to assets OWNED by an applicant. The section of BAM 400 regarding jointly owned cash is provided for guidance in determining ownership. Availability does not equal ownership. If an asset is not owned by a benefit group member, it is not counted as an asset in determining eligibility.

The affidavits submitted by Claimant and his son meet the criteria of BAM 400 as a claim of different ownership. During this hearing the Department alluded to the validity

of the "different ownership" claim. No evidence was presented that refutes the "different ownership" claim.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's March 31, 2015 Medical Assistance application on April 15, 2015.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's March 31, 2013 application, including retroactive request.
2. Process the application in accordance with Department policy.
3. Issue a current notice of eligibility following the reprocessing of the application.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/25/2015**

Date Mailed: **8/25/2015**

GFH / 

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:

