

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 Department contended that Claimant's MA application was denied because his assets exceeded the limit for MA eligibility. (Exhibit A). Asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, disabled or blind. BEM 400 (January 2015), p. 1; BEM 105 (October 2014), p. 1. For SSI-related MA, the asset limit is \$2,000. BEM 400, p. 7; BEM 211 (January 2015), p. 5.

At the hearing, the Department testified that in connection with his application, Claimant submitted a bank statement for the period of March 1, 2015, to March 31, 2015, which reflected account balances in the amount of \$1,443.37 for a regular share account and \$27,517.56 in a share draft account. (Exhibit B). The Department stated that it concluded that the total balance of Claimant's checking and savings account alone is \$28,960.93, which is greater than the \$2,000 asset limit. The Department presented a MA Asset budget showing liquid assets in the amount of \$34,015.53 and a lump sum asset of \$2,000, which the Department could not explain. According to the MA Asset budget the Department determined that Claimant had total countable resources in the amount of \$36,015.53. (Exhibit C). The Department was also unable to explain how the total asset amount reflected on the asset budget was determined, as the balances in the accounts as reflected in the bank statements provided do not total \$36,015.53. It was also unclear whether the Department considered the ending balance reflected on the bank statements or the lowest balance in the accounts.

Checking and savings accounts are assets. BEM 400, p. 14. The value of an account is the amount of cash in the account. BEM 400, p. 16. Department policy provides that 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. BEM 400, p. 6.

In this case, Claimant testified that he borrowed \$30,000 from his parents in June 2014 in order to secure the purchase of a townhouse and that prior to submitting his April 21, 2015, MA application, he returned the money to his parents. Claimant testified that as of the application date, he no longer had that money in his bank account, as he had already transferred it back to his parents. Claimant provided some documentation in support of his testimony. (Exhibit 1). The Department did not establish that it sent Claimant a verification checklist to verify the amount of his assets for the application month being tested and instead relied on the bank account statement from March 2015.

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 did not act in accordance with Department policy when it denied Claimant's MA application based on excess assets.

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. Register and process Claimant's April 2015 MA application to determine his eligibility for MA under the most beneficial program;
2. Provide Claimant with any MA benefits that he was entitled to receive but did for April 2015, ongoing; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/10/2015**

Date Mailed: **8/10/2015**

ZB / tlf

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:

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