

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

IN THE MATTER OF:



Reg. No.: 15-012826
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: September 09, 2015
County: Kent-District 1

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 September 9, 2015, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Representative, Guardian, and Son. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] Family Independence Manager and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly determine that the Claimant had excess assets for continued eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a recipient of MA with a redetermination due in May 2015.
2. On April 14, 2015, the Department sent a redetermination application with a due date of May 1, 2015 with an extension to May 11, 2015.
3. On May 11, 2015, the required verifications were submitted to the Department.
4. On June 22, 2015, the Department determined that the Claimant had excess assets for MA due to two separate parcels of land that were not actively being advertised for sale in a local newspaper and not currently listed with a licensed realtor.

5. On June 22, 2015, the Department sent the Claimant a notice that he was excess assets for MA.
6. On July 9, 2015, the Department received a hearing request from the Claimant's Authorized Representative, contesting the Department's negative action.

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.

In this case, the Claimant was a recipient of MA with a redetermination due in May 2015. On April 14, 2015, the Department sent a redetermination application with a due date of May 1, 2015 with an extension to May 11, 2015. On May 11, 2015, the required verifications were submitted to the Department. On June 22, 2015, the Department determined that the Claimant had excess assets for MA due to two separate parcels of land that were not actively being advertised for sale in a local newspaper and not currently listed with a licensed realtor. On June 22, 2015, the Department sent the Claimant a notice that he was excess assets for MA. On July 9, 2015, the Department received a hearing request from the Claimant's Authorized Representative, contesting the Department's negative action. Department Exhibit 1-54. BAM 105, 110, 115, 130 200, 210, 220, and 600. BEM 400.

This Administrative Law Judge finds that the Claimant was excess assets based on the valuation of the two parcels of land that he owns. The Department policy is very clear that the property has to be for sale for the 30 days for a redetermination and 90 days for a new application and be listed by a licensed real estate agent and actively publicized in the local newspaper. For a non-salable asset, the Department requires two knowledgeable sources of a realtor, banker, or stockbroker in the Claimant's geographic area that state the asset is not salable due to a specific condition and a sale attempt at or below the fair market value results in no reasonable offer to purchase. BEM 400, page 13-14.

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 determined that the Claimant had excess assets for MA.

DECISION AND ORDER

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

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/18/2015**

Date Mailed: **9/18/2015**

CGF/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 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:

