

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

IN THE MATTER OF:



Reg. No.: 14-014042 RECON; 14-014043 RECON
14-014042; 14-014043
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 11, 2015
County: Marquette

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to the Department of Health and Human Services (Department's) Request for Rehearing/ Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on February 11, 2015, and mailed on March 13, 2015, in the above-captioned matter.¹

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015 and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was mailed on May 15, 2015.

ISSUES

Whether the ALJ erred in reversing-in-part the Department's decision to close Claimant's Medical Assistance (MA) case due to excess assets?

FINDINGS OF FACT

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

¹ The ALJ, with consent of the parties, consolidated two separate requests for hearing and issued one decision containing two Registration numbers (#14-014042 & #14-014043).

1. Claimant was active for MA-Ad Care when the Department reprocessed his February 6, 2014 MA application on April 12, 2014.² (Exhibit, pp. 4-16, 41; Reg #14-014042 and Reg #14-014043)
2. On April 12, 2014, the Department mailed Claimant a verification checklist (DHS-3503) which requested that Claimant, by April 22, 2014, provide proof of all income reported on the application. (Exhibit 24-25; Reg #14-014042 and Reg #14-014043)
3. On April 18, 2014, the Department mailed Claimant a Health Care Coverage Determination Notice (DHS-1606) which determined that Claimant was eligible for a deductible in the amount of \$ [REDACTED] during the period of April 1, 2014 – ongoing. (Exhibit pp 17-19; Reg #14-014042 and Reg #14-014043)
4. On April 22, 2014, the Department mailed Claimant a Health Care Coverage Determination Notice (DHS-1606) which indicated that from April 1, 2014 through April 30, 2014, Claimant was not eligible for MA-G2S and “not eligible for Medicare Cost Share programs because he or she has full Medicaid coverage.” The DHS-1606 listed Claimant’s annual income as \$ [REDACTED] (Exhibit pp 20-23; Reg #14-014042 and Reg #14-014043)
5. On September 18, 2014, the Department discovered that HMP was not considered for Claimant’s spouse so a remedy ticket was requested to correct the error. (Exhibit p 41; Reg #14-014042 and Reg #14-014043)
6. On September 24, 2014, the Department mailed Claimant a verification checklist (DHS-3503) which requested that Claimant, by October 6, 2014, provide current checking and savings bank statements at [REDACTED], mortgage or deed and property taxes of his homes located on [REDACTED] and [REDACTED]. (Exhibit 17-18; Reg #14-014043 and Reg #14-014043)
7. On October 6, 2014, Claimant provided the Department with the following: (1) a September, 2014 tax bill for the [REDACTED] property which indicated an S.E.V. of \$ [REDACTED] and (2) [REDACTED] checking account balance of \$ [REDACTED] and savings account of \$ [REDACTED] (Exhibit 19-20; Reg #14-014043)
8. Claimant’s spouse owned property on [REDACTED] which had an S.E.V. of \$ [REDACTED] according to the September, 2014 tax bill. (Claimant’s Exhibits)
9. The Department determined that Claimant’s total assets were \$ [REDACTED]
10. On October 7, 2014, the Department mailed Claimant a Health Care Coverage Determination Notice (DHS-1606) which indicated that from April 1, 2014 through April 30, 2014, Claimant was not eligible for HMP effective November 1, 2014-

² The Department reprocessed the original MA application due to implementation of the Healthy Michigan Plan (HMP) and in order to update his eligibility.

ongoing because the value of his assets was higher than allowed for the program. (Exhibit pp 27-30; #14-014043)

11. On October 15, 2014, Claimant requested a hearing to appeal the October 7, 2014 termination of his MA program benefits and Medicare Savings Program benefits.
12. On October 23, 2014, Claimant requested a hearing to appeal the Department's decision to place him with a monthly deductible.
13. A hearing was held on February 11, 2015 resulting in a Hearing Decision mailed on March 13, 2015.
14. On March 24, 2015, the Michigan Administrative Hearing System (MAHS) received the Department's Requests for Rehearing/Reconsideration.
15. On May 15, 2015, the MAHS issued an Order Granting Reconsideration.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of 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 must be considered in determining eligibility for FIP, SDA, RCA, G2U, G2C, RMA, SSI-related MA categories, and FAP. BEM 400, page 1 (7-1-2014).

Assets mean 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 (examples: currency, savings accounts and vehicles). BEM 400, page 1.

All types of assets are considered for SSI-related MA categories. BEM 400, page 2.

MA ASSET ELIGIBILITY

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

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

Note: Do **not** deny or terminate Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining G2U, G2C, RMA or SSI-related MA eligibility.

Use the special asset rules in BEM 402, SPECIAL MA ASSET RULES, for certain married L/H and waiver patients. See BPG Glossary, for the definition of L/H patient and BEM 106, MA WAIVER FOR ELDERLY AND DISABLED, for the definition of waiver patient.

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.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment. BEM 400

G2U, G2C and RMA Asset Limit

\$3,000

Group 2 Fiscal Groups

Determine the fiscal and asset groups separately for each person requesting Medicaid. The fiscal group must be determined separately for each person. In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the individual:

- The individual's spouse, and
- The individual's parent(s) if the individual is a child.

See BEM 211, page 5 (1-1-2015)

Here, the Department makes two arguments in support of the request for rehearing/reconsideration. First, the Department contends that the ALJ erred when partially reversed the Department's decision to close Claimant's MA case and ordered the Department to obtain rental property expense verifications. The Department argues simply that once the ALJ determined that Claimant was excess assets for MA, verification is not required when the client is clearly ineligible. According to the Department, the ALJ misapplied BAM 130 requesting the Department obtain verifications from a Claimant who is clearly excess assets and obviously ineligible for MA. Second, the Department contends that the ALJ erred when he ordered the Department consider MA eligibility for Claimant's grandson because there was no pending application for the grandson.

With regard to the Department's contention that it is not required to obtain verification of the rental property expenses of Claimant's spouse because Claimant was clearly asset ineligible, the undersigned finds that the Department is correct.

The record shows that Claimant did not challenge the Department's determination as to the fair market value of the College Avenue property. Rather, Claimant argued that the rental property operated at a loss due to the expenses exceeding the income. The record shows that the Department properly determined that the assets of the entire household are countable when determining asset eligibility under BEM 211. The Department also correctly determined that the home on College Avenue is a rental property and must be taken into account when determining the group's asset eligibility because Claimant's spouse is a member of the group for the purposes of MA. The state equalized value for the College Avenue property was well above the asset limit in this case. The ALJ affirmed the Department's finding that Claimant was above the \$3,000 asset limit based, in part, on the value of his spouse's property.

Claimant's emphasis on BEM 211 concerning whether the Department should have evaluated the rental income from his spouse's property is misguided. It should be noted that BEM 211, page 5, concerns the Department's determination of income; not assets. Because the Department must consider Claimant's income and his spouse's rental income from the College Avenue property together, Claimant is asset ineligible. The expense information related to the rental property is not relevant to the determination of assets. The ALJ should not have ordered the Department to obtain Claimant's rental expense verifications.

The undersigned finds that the Department acted in accordance with Department policy when it determined Claimant's MA asset eligibility. The ALJ erred in finding that Department did not act in accordance with Department policy when it declined to accept Claimant's expense information related to the rental property.

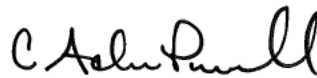
The undersigned will now address the Department's second argument that the ALJ erred when he ordered the Department reprocess the MA application to determine eligibility for Claimant's grandson. A close examination of this record reveals that Claimant's application (DHS-1426) only requested MA for himself and his spouse, but no MA benefits were requested for his grandson. (See Exhibit p. 6; #14-014042) Although the Department representative, during the hearing, agreed to reprocess the application for Claimant's grandson, the record shows that Claimant did not properly request benefits for his grandson. Rather, Claimant listed his grandson as a dependent. (See Exhibit p. 6; #14-014042) The Department is correct. The ALJ should not have ordered the Department to reprocess the application and determine MA benefits for Claimant's grandson as he did not properly request MA for the grandson in the application.

DECISION AND ORDER

The Supervising Administrative Law Judge, based on the above findings of fact and conclusions of law, **AFFIRMS** the ALJ's Hearing Decision concerning the Department's determination that Claimant was excess assets and **VACATES** the ALJ's Hearing Decision (Reg #14-014042 and Reg #14-014043) that requires the Department request expense information regarding the rental property, to process the rental property expense information to determine Claimant's MA eligibility. The ALJ's determination that the Department should reprocess the MA application for Claimant's grandson is also **VACATED**.

Based on the above, the Department's determination concerning Claimant's assets for purposes of MA-G2S and Medicare Cost Share programs are **AFFIRMED**.

IT IS SO ORDERED.



C. Adam Purnell
Supervising Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: September 15, 2015

Date Mailed: September 15, 2015

NOTICE: The law provides that within 30 days of receipt of the this Decision, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

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