

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-001940
Issue No.: 2001
Case No.: ██████████
Hearing Date: March 18, 2015
County: WAYNE-82 (ADULT MEDICAL)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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, a telephone hearing was held on March 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included AHR ██████████ ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist, and ██████████ Family Independence Manager.

ISSUE

Due to excess assets, did the Department properly deny Claimant's application for Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. Claimant applied for MA benefits on September 24, 2014.
2. At the time of application, Claimant had a joint bank account, on which her name was listed, with her daughter in the amount of ██████████.
3. On January 7, 2015, Claimant's application for MA benefits was denied.
4. On January 7, 2015, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.

5. On January 29, 2015, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Assets must be counted when determining eligibility for the MA program. BEM 400, pg.1 (2015). An asset is countable if it meets the availability tests and is not excluded. BEM 400.

Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, pg. 9.

With regards specifically to cash assets, the Department must count the entire amount unless the person claims and verifies a different ownership; if different ownership is verified, the Department may count only the cash each person owns. BEM 400, pg. 11.

The asset limit for the MA program applied for by the Claimant is [REDACTED] for a single person, [REDACTED] for a two person group. BEM 400.

In the current case, Claimant was listed as the owner of a bank account in the amount of [REDACTED]. Because Claimant was listed as the owner, the asset was available, as Claimant had the legal right to use or dispose of the asset.

As the asset was available, the Department was required to count the entire amount of the account; furthermore, no cash exclusions, listed in BEM 400, applied to this amount. Finally, at no point did the Claimant allege a different owner of the cash, nor did the Claimant provide verification of a different ownership.

While Claimant's AHR alleged at hearing that the account was only in the Claimant's name to simplify the process for covering Claimant's expenses, the fact remains that Claimant, at any time, had the legal right to dispose of the entirety of the income,

regardless of the physical capability to do so, and no evidence had ever been submitted that Claimant did not own the cash.

Therefore, as the asset in question was available and not excluded, and was a countable asset, and as this asset exceeded the asset limit for the MA program applied for, the Department was correct to deny MA benefits for exceeding the asset limit.

The Administrative Law Judge, based upon 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 Claimant's MA benefit application.

DECISION AND ORDER

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



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/27/2015**

Date Mailed: **3/30/2015**

RJC / tm

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]