

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-010785
Issue No.: 2001
Case No.: ██████████
Hearing Date: August 20, 2015
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 20, 2015, from Detroit, Michigan. ██████████ testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, specialist.

ISSUE

The issue is whether MDHHS properly denied Claimant's Medical Assistance (MA) application due to excess assets.

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 January 16, 2014, Claimant applied for MA benefits, including retroactive MA benefits from November 2013.
2. Throughout November 2013, Claimant was the owner of a single motor vehicle and a checking account with a balance as low as \$0.
3. Throughout December 2013, Claimant was the owner of a single motor vehicle and a checking account with a balance as low as ██████████
4. On March 27, 2015, MDHHS denied Claimant's MA application, including retroactive MA benefits, due to excess assets and mailed a Health Care Coverage Determination Notice informing Claimant of the denial.

5. On June 8, 2015, Claimant's AHR requested a hearing disputing the denial of MA benefits.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant's AHR's hearing request noted that special arrangements were required for participation in the hearing; specifically, a 3-way telephone hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

Claimant's AHR requested a hearing to dispute the denial of an MA application dated January 16, 2014, including retroactive MA months from November 2013. It was not disputed that the denial was based on excess assets.

Assets must be considered in determining eligibility for SSI-related MA categories. BEM 400 (April 2015), p. 1. It was not disputed that Claimant's MA eligibility was based on disability, an SSI-related category. The SSI-Related MA asset limit is \$2,000. *Id.*, p. 7.

MDHHS credibly presented testimony that Claimant's asset-eligibility was based on the combined value of two checking account and Claimant-owned vehicles. MDHHS contended that the combined value of checking accounts and countable vehicles exceeded the \$2,000 asset limit.

MDHHS presented a list of 3 vehicles (Exhibit 1) factored in the asset determination. Claimant testimony conceded he owns (and owned as of November 2013) one of the 3 vehicles factored by MDHHS. [For SSI-related MA, MDHHS is to] exclude one motorized vehicle owned by the asset group. *Id.*, p. 37. The analysis need only consider whether MDHHS properly factored the two vehicles that Claimant denied owning.

Claimant testified that one of the vehicles factored in the asset determination was totaled in 2005; Claimant testified that the second vehicle was repossessed in February 2013. MDHHS presented no evidence to justify factoring any of the vehicles other than testimony that Claimant likely reported to MDHHS owning the vehicles at some point in time.

MDHHS vehicle verification source policy lists acceptable sources of ownership and vehicle value (see *Id.*, p. 60). MDHHS policy is not known to require clients to verify non-ownership of a vehicle. An expectation of verification of vehicle non-ownership might be justified if MDHHS had reliable information (e.g. Secretary of State documentation) suggesting that a client owned more than one vehicle. No such evidence was presented. It is found that MDHHS erred by factoring vehicles in the determination of Claimant's asset eligibility.

MDHHS also based the asset determination based on two checking accounts (see Exhibit 2). One of the checking accounts belonged to Claimant; \$ [REDACTED] was the listed asset amount. A second account belonged to Claimant's wife; MDHHS factored the asset to be [REDACTED]

Checking accounts are a countable asset limit in determining SSI-related MA benefits (see *Id.*, p. 14). For [Food Assistance Program, MDHHS is to] use the lowest checking, savings or money market balance in the month when determining asset eligibility. *Id.*

Concerning SSI-related MA, MDHHS policy apparently provides no guidance for valuing a checking account. Due to the lack of guidance, the policy for FAP will be applied to MA benefits. Thus, Claimant's lowest monthly balance will be used to determine the amount of Claimant's checking account as an asset.

Claimant's AHR presented a checking account statement (Exhibits A1-A2) listing Claimant's account balance from September 30 2013, through December 20, 2013. Claimant's lowest balance for November 2013 was a negative balance. Claimant's lowest balance for December 2013 was [REDACTED]. MDHHS presented no evidence to justify budgeting higher amounts.

MDHHS counted Claimant's spouse's checking account to be [REDACTED] (see Exhibit 2). Claimant credibly testified that his wife did not have a bank account until May 2014. Thus, Claimant's AHR contended that MDHHS should not have counted the checking account in determining Claimant's MA eligibility from before May 2014. MDHHS failed to present any evidence rebutting Claimant's testimony. It is found that MDHHS improperly included Claimant's spouse's bank account information concerning Claimant's MA eligibility.

Based on the presented evidence, Claimant had no countable assets for November 2013. Claimant's countable assets for December 2013 were \$ [REDACTED]. Both asset amounts are far below the asset limit of [REDACTED]. It is found that MDHHS improperly denied Claimant's MA eligibility due to excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Claimant's application for MA benefits. It is ordered that MDHHS perform the following actions:

- (1) reinstate Claimant's MA application dated January 16, 2014, including retroactive MA benefits from November 2013;
- (2) redetermine Claimant's asset-eligibility based on countable assets for November 2013 of \$0 and countable assets for December 2013 of [REDACTED];
- (3) issue a supplement for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **8/26/2015**

Date Mailed: **8/26/2015**

GC/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 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:

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