

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-019978
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: Saginaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Petitioner'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 three-party telephone conference hearing was held on January 20, 2016, from Lansing, Michigan. [REDACTED] (Authorized Hearing Representative (AHR)) represented Petitioner. (Petitioner did not participate in the hearing). [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly deny Petitioner's application for Medical Assistance (MA) or "Medicaid" 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. Petitioner submitted an online application for MA benefits on July 23, 2015. [Exhibit 1, pp. 14-26].
2. Petitioner indicated on the application that she had unpaid medical expenses for April, May and June, 2015. [Exh. 1, p. 17].
3. Petitioner indicated on the application that she had the following assets: term life insurance. [Exh. 1, p. 20].
4. As of August 26, 2015, Petitioner had a \$[REDACTED] life insurance policy with a \$[REDACTED] cash value and a net surrender value of \$[REDACTED]. At this time, Petitioner also had a \$[REDACTED] life insurance policy with a \$[REDACTED] cash value with an outstanding loan amount of \$[REDACTED] and a net surrender value of \$[REDACTED]. [Exh. 1, p. 27].
5. Petitioner did not have any other countable assets at the time.

6. The Department determined that Petitioner's total countable assets were \$ [REDACTED] [Exh. 1, p. 28].
7. On August 31, 2015, the Department mailed Petitioner a Health Care Determination Coverage Notice (DHS-1606) which indicated that her MA (and retro MA) applications were denied due to excess assets. [Exh. 1, pp. 11-12].
8. On October 7, 2015¹, the Department received a request for hearing from Petitioner's Authorized Representative (AR) concerning the MA application denial based on the asset determination.

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.

Here, the Department representative who attended the hearing testified that the Department erred when it initially determined Petitioner's application should be denied due to excess assets. According to the Department representative, a local office employee inaccurately calculated the amount of Petitioner's term life insurance policy assets. Apparently, this individual did not include the proper values of the two life insurance policies, which should have been the net surrender values of \$ [REDACTED] for the \$ [REDACTED] policy and \$ [REDACTED] for the \$ [REDACTED]. Instead, the local office worker utilized the cash value amounts which were \$ [REDACTED] and \$ [REDACTED] [See Exhibit 1, p. 27]. Petitioner's AHR did not disagree with the Department representative's analysis.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

¹ Petitioner's AHR initially sent the Department an unsigned request for hearing but then later sent a signed request for hearing on October 14, 2015.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The parties did not dispute the salient facts and the applicable policy is not at issue. The Department representative's testimony that explains how the asset calculation error occurred is found to be credible. Because the Department conceded that it incorrectly calculated the amount of Petitioner's assets when it processed Petitioner's July, 2015 MA application, this Administrative Law Judge must reverse due to departmental error.

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 processed Petitioner's July 23, 2015 application for MA and retro MA.

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. If not already done, the Department shall re-register and reprocess Petitioner's July 23, 2015 application for MA (and retro MA) benefits.
2. The Department shall, if not already done, redetermine Petitioner's MA eligibility (and retro MA eligibility) back to the date of July, 2015 application.
3. The Department, only to the extent required by policy, shall provide Petitioner with retroactive and/or supplemental benefits.

IT IS SO ORDERED.



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

1/21/2016

Date Mailed: 1/21/2016

CAP/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:

