



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 29, 2016
MAHS Docket No.: 16-010231

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 telephone hearing was held on September 1, 2016, from Lansing, Michigan. The Petitioner was represented by her son and authorized representative, [REDACTED] and her other son, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Long Term Care Eligibility Specialist.

ISSUE

Did the Department properly determine the Petitioner's eligibility for Medical Assistance (MA) for long term care (LTC)?

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 June 23, 2016, the Petitioner applied for MA LTC. Department Exhibit 1, pgs. 32-43.
2. On July 15, 2016, the Department Caseworker determined that the Petitioner had excess assets for MA of a non-homestead property with a countable fair market value of [REDACTED] of SEV of [REDACTED] times [REDACTED] being that the property was not actively listed for sale and was listed for more than the fair market value at [REDACTED] on [REDACTED]. Department Exhibit 1, pgs. 4-27.

3. On July 15, 2016, the Department Caseworker sent the Petitioner a notice that she was denied for MA due to excess due to her non-homestead property per BEM 400 where an actual sale attempt must have been started 90 days prior to application and must continue until the property is sold where an actual sale attempt requires the seller to set the price for fair market value, actively advertising the sale in publications, and is currently listed with a licensed realtor. Department Exhibit 1, pgs. 15-18.
4. On July 25, 2016, the Department received a hearing request from the Petitioner, 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 Petitioner applied for MA LTC on June 23, 2016. Department Exhibit 1, pgs. 32-43. On July 15, 2016, the Department Caseworker determined that the Petitioner had excess assets for MA of a non-homestead property with a countable fair market value of [REDACTED] of SEV of [REDACTED] times [REDACTED], being that the property was not actively listed for sale and was listed for more than the fair market value at [REDACTED] on [REDACTED]. Department Exhibit 1, pgs. 4-27. On July 15, 2016, the Department Caseworker sent the Petitioner a notice that she was denied for MA due to excess due to her non-homestead property per BEM 400 where an actual sale attempt must have been started 90 days prior to application and must continue until the property is sold where an actual sale attempt requires the seller to set the price for fair market value, actively advertising the sale in publications, and is currently listed with a licensed realtor. Department Exhibit 1, pgs. 15-18. On July 25, 2016, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BEM 400.

During the hearing, the Petitioner's son argued that that there was a lien on the property. However, even discounting the lien, the value of the property is still more than [REDACTED], which is the asset limit for MA. In addition, the property does not qualify as exempt because there is not an actual sale attempt where the property has not been

listed for sale since October 4, 2012 and it is not listed with licensed realtor. The property was not listed for sale in the local paper, [REDACTED] or [REDACTED]. The property is listed for sale on [REDACTED] for [REDACTED], which is greater than the fair market value of [REDACTED]. As a result, the Petitioner does not meet the requirements listed in BEM 400 and the non-homestead property is a countable asset, resulting in excess assets for MA eligibility.

DECISION AND ORDER

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 Petitioner had excess assets for MA benefits.

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



Carmen G. Fahie

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]