



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: December 19, 2016  
MAHS Docket No.: 16-014028

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

**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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 29, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED]. Petitioner did not appear. Petitioner submitted [REDACTED] exhibits which were admitted into evidence.

The Department of Health and Human Services (Department) was represented by Assistant [REDACTED], Hearing Facilitator [REDACTED], Eligibility Specialist [REDACTED] and Medicaid Eligibility Specialist [REDACTED]. Respondent submitted five exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

**ISSUE**

Whether the Department properly denied Petitioner's continuing Medicaid coverage when it valued Petitioner's homestead, which consisted of two adjoining parcels, by using the State Equalized Value multiplied by two?

**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 March 8, 2016, the Department received Petitioner's redetermination.
2. The Department determined that Petitioner's homestead equity value was [REDACTED] [Dept. Exh. 4-5].

3. The Department calculated the Petitioner's homestead equity value by using the 2015 county tax statements and multiplying the SEV by two. [Dept. Exh. 1, 4-5].
4. The Department issued a Benefit Notice denying Petitioner's continuing Medicaid effective August 1, 2016, due to Petitioner's homestead value exceeding the 2015 limit of [REDACTED] [Dept. Exh. 2-3].
5. On September 22, 2016, Petitioner submitted a Request for Hearing contesting the valuation of the homestead.

### **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), and Department of Health and Human Services Reference Tables Manual (RFT).

The Medical Assistance (Medicaid) 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 Medicaid program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The issue in this case is whether the Department properly determined the fair market value of Petitioner's homestead.

Pursuant to BEM 405, to determine the fair market value of real property and mobile homes the Department uses:

- Deed, mortgage, purchase agreement or contract.
- State Equalized Value (SEV) on current property tax records multiplied by two.
- Statement of real estate agent or financial institution.
- Attorney or court records.
- County records. BEM 400, pp 30-31 (7/1/2016).

The value is the equity value. *Id.* at 31. Equity value is the fair market value minus the amount legally owed in a written lien provision. *Id.* Liens must be filed with the register of deeds or other appropriate agency. *Id.* Deeds are considered legal if they are signed and notarized. *Id.* It does not have to be registered with the registrar of deeds to be a legal document.

In this case, Petitioner had two adjoining properties that the Department counted together as the homestead. The SEV of the first property was [REDACTED], multiplied by two, was [REDACTED]. The second property had an SEV of [REDACTED], multiplied by two, was [REDACTED] plus [REDACTED] is [REDACTED] the Department's valuation of the homestead. For 2015, the equity limit in a homestead was [REDACTED]0. Because Petitioner's homestead valued at [REDACTED] exceeded the homestead limit of [REDACTED] for 2015, Petitioner was not entitled to Medicaid.

Petitioner indicated that the policy the Department relied on is ambiguous in that it does not state that the Department must use twice the SEV over the other choices. Petitioner contends that the Department should have used the appraisals from the real estate agents to determine the homestead's value instead of multiplying the SEV by two. Petitioner did not submit any case law or other authority to support the contention that the Department erred in using twice the SEV.

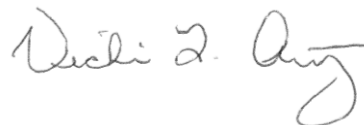
Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder 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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Here, Respondent credibly showed that the Department used twice the SEV in accord with policy.

### **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, finds that the Department acted in accordance with Department policy when it used twice the SEV in valuing the homestead.

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



**Vicki Armstrong**

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]  
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