

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 200931728
Issue No: 2021
Case No: [REDACTED]
Hearing Date: January 20, 2011(contINUANCE)
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held continued to January 20, 2011.

ISSUE

Did the DHS properly deny claimant's retro Medicaid for February 2009 and March 2009 due to excess assets?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On May 18, 2009, claimant applied for MA.
2. Claimant applied for three months of retro—February, March, and April 2009.
3. The department subsequently approved April, 2009. The only months left at issue herein are February and March, 2009.
4. The application lists for the month of February, 2009 an IRA in the amount of [REDACTED] and a bank account of [REDACTED].
5. For the month of March, 2009 the verification indicates an IRA of [REDACTED] and a bank account of zero. Exhibit 1.
6. The asset limit herein is [REDACTED].

7. On June 8, 2009, the department issued notice approving MA from April, 2009 forward. Retro was denied for February and March, 2009 due to excess assets.
8. Claimant filed a hearing request on June 29, 2009.
9. This case was delayed for a number of months waiting for [REDACTED] to locate a prior hearing request which evidently was never located.
10. This case was also continued to give the department an opportunity to request an exception on behalf of claimant. On March 11, 2011, policy denied that exception based on BEM Item 100.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the BRIDGES Administrative Manual (BAM), the BRIDGES Eligibility Manual (BEM) and the BRIDGES Reference Manual (BRM).

Applicable policy to the case herein is BEM Item 400. Under this policy, the department is required to count an IRA and bank accounts as assets.

MA group eligibility is discussed in BEM Item 211. That item indicates that the asset limit for the facts herein is [REDACTED].

Claimant's assets exceeded the asset limit of [REDACTED] for the months of February, 2009 and March, 2009.

Claimant's hearing representative requests an exception on the grounds that she repeatedly requested W [REDACTED] to cash in the IRA. W [REDACTED] delayed. [REDACTED] did not cash it in until April, 2009 which in fact triggered eligibility at that point.

As a general rule, applicants are generally not held responsible for the actions of third parties when those actions are outside their control with regards to verification. However, in this case, claimant still was in excess assets. Excess assets existed for February, 2009 as well as March, 2009. If there were no excess assets that [REDACTED] failed to provide verification timely, such may be a remedial situation. However, the undersigned Administrative Law Judge cannot give claimant something that she is not entitled to have based upon the facts as they stand. The facts as they stand is that claimant had excess assets for February and March, 2009. Administrative Law Judges do not have equitable powers. Claimant does not have a claim against the DHS. The undersigned Administrative Law Judge would think that claimant's argument is more

appropriately applied to the actions of [REDACTED] and not the DHS. The department's actions are upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial actions are UPHELD.

/s/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 27, 2010

Date Mailed: April 27, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JGS/db

cc:

[REDACTED]