

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201112415
Issue No: 2023
Case No: [REDACTED]
Hearing Date: May 3, 2011
Emmet 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 3-way telephone hearing was held. Claimant was represented at the administrative hearing by [REDACTED], hearing representative with [REDACTED] collecting on behalf of a hospital.

ISSUE

Did the DHS properly deny claimant's MA application for 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 August 18, 2010, claimant applied for MA.
2. On September 24, 2010, the DHS issued a denial indicating that claimant's case was denied as the countable assets are higher than the amount allowed for the MA program.
3. The asset limit for the program for claimant was [REDACTED]
4. Claimant's assets includes a [REDACTED] in the amount of [REDACTED]. The amount was not cashed in by the end of May, 2010.

5. On May 29, 2010, claimant entered a “loan agreement”—a document drafted [REDACTED] indicating that she was borrowing [REDACTED] from her sister “for the purposes of payment toward payment of taxes.” Testimony on the record at the administrative hearing was that the tax liability was [REDACTED]. Claimant indicates in the loan agreement that she intended to repay the lender “from the check to be received from [REDACTED] and [REDACTED].”
6. Claimant had access to the monies at [REDACTED] in May, 2010.
7. There was no loan exclusions allowed in policy for the MA program under BEM Item 400.

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 and procedure to the case herein is found in BEM and BAM policy items.

Specific to the case herein, BEM Item 400 requires that the department count any assets in calculating MA eligibility that are available. Evidence on the record indicates that claimant’s monies invested with [REDACTED] was available to her in the month of May, 2010.

Claimant argues that the loan agreement drawn up by [REDACTED] should fall under the BEM Item 400 loan exclusion policy. This policy allows for the exclusion of funds that a person has borrowed for a bonafide loan. BEM Item 400, p 12. However, the policy does not apply to MA—it is only applicable to FIP.

After careful of the substantial and credible evidence on the whole record, this Administrative Law Judge finds that claimant was in excess assets when she applied for MA. The department correctly denied claimant’s MA application on the grounds of excess assets and thus, the department’s denial is hereby 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.

201112415/jgs

Accordingly, the department's UPHELD.

/S/

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

Date Signed: May 23, 2011

Date Mailed: May 23, 2011

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:

