

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-12770
Issue Nos.: 2021, 4017
Case No.: [REDACTED]
Hearing Date: February 16, 2011
DHS County: Macomb (50-36)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on February 16, 2011. Claimant appeared and testified. [REDACTED]

[REDACTED] appeared and testified for the Claimant. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant's State Disability Assistance (SDA) and Medical Assistance (MA or Medicaid) application?

FINDINGS OF FACT

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

1. In about October 2010, Claimant applied for SDA and MA benefits with DHS.
2. In October 2010, the DHS asset limit for SDA and SSI-related MA benefits for a group of one person was \$2,000.
3. On October 1, 2010, Claimant was approved for SDA and MA subject to verification of her assets.
4. On or before November 30, 2010, Claimant provided verification of a traditional Individual Retirement Account (IRA) containing approximately \$28,000.

5. The early withdrawal penalty for Claimant's IRA is ten percent (10%).
6. On December 9, 2010, DHS denied Claimant's application, stating she had excess assets which made her ineligible for SDA and MA benefits.
7. On December 22, 2010, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

SDA provides financial assistance for disabled persons and is established by 2004 Michigan Public Acts (PA) 344. DHS administers the SDA program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3151-400.3180. DHS' policies are found in BAM, BEM and RFT. *Id.*

The DHS manuals are the essential operating manuals providing policy and procedures for all DHS activity on a day-to-day basis. I find that BEM 400, "Assets," is the applicable DHS manual item to look to for legal authority and guidance in this case. BEM 400, "Assets," states that for all SSI-related MA categories except Freedom to Work, Medicare Savings Programs and Qualified Disabled Working Individuals, the asset limit for an asset group of one individual is \$2,000. BEM 400, p. 5.

Next, looking at page 15 of BEM 400, I find the rules for evaluating the worth of IRA accounts as follows:

The value of these plans is the amount of money the person can currently withdraw from the plan. Deduct any early withdrawal penalty, but not the amount of any taxes due. *Id.*, p. 15.

At the hearing on February 16, 2011, it was established that the early withdrawal penalty is ten percent (10%). Accordingly, I find and conclude that the value of Claimant's IRA for purposes of qualifying for DHS benefits is \$25,200, or 90% of \$28,000.

I find and conclude that Claimant's IRA is clearly worth more than \$2,000, which is the DHS asset limit that cannot be surpassed in order to qualify for benefits. I find that DHS

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acted correctly in this case and DHS is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS DHS' action. DHS need not take further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 28, 2011

Date Mailed: March 3, 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.

JL/pf

cc:

