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

IN THE MATTER OF:

Reg. No: Issue No: 201120467

2021

Hearing Date:

May 12, 2011

Jackson 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 on May 12, 2011. Claimant was represented by

<u>ISSUE</u>

Did the DHS properly deny claimant's MA application for the retro month of June, 2010 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 August 11, 2010, Lagrangian submitted an application for MA and retro MA on behalf of claimant.
- 2. The parties stipulated at the administrative hearing that the only month at issue herein is the retro month of June, 2010.
- 3. The asset limit for this program is
- 4. Asset verification included a bank account balance of individual's name on the account is claimant's name.
- On September 21, 2010, the DHS denied the retro month of June 2010 for excess assets.
- 6. On December 13, 2010, claimant's representative filed a hearing request.

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 primarily in BEM Item 400. This item states that assets are counted when they are available. This policy states:

An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM Item 400, p 6.

The bank account in question is solely in the name of claimant. Claimant argued at the administrative hearing that she was holding the money for a friend. A statement from the friend was submitted that was not witnessed, or signed by a notary. The friend did not appear at the administrative hearing. Under law and DHS policy and procedure, only claimant had a legal right to the money at issue herein. As such, BEM 400 requires the department to count the money in the account as an asset. As the asset limit for claimant for the MA program is claimant's bank account of exceeds the asset limit.

The undersigned Administrative Law Judge has applied the policy to the facts herein and finds that the department correctly counted the money in the bank account as an asset for the retro month of June 2010. The department's denial is 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 is UPHELD.

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

Date Signed: May 24, 2011_

Date Mailed: May 24, 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:

