

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

IN THE MATTER OF:



Reg. No.: 201249812
Issue No.: 2020
Case No.: [REDACTED]
Hearing Date: July 12, 2012
County: Wayne DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on July 12, 2012 from Inkster, Michigan. Participants included [REDACTED] on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager. It should be noted that Claimant timely arrived to the DHS office for the hearing; the hearing was held in Claimant's absence because Claimant's presence was not made known.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) benefits due to excess assets.

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 12/19/11, Claimant applied for MA benefits.
2. At the time of application, Claimant had an annuity through his former employment.
3. DHS determined that Claimant's annuity was a countable asset valued at \$80,420.63.
4. On 2/10/12, DHS determined that Claimant had excess assets for MA benefits.
5. On 4/16/12, Claimant requested a hearing to dispute the denial of MA benefits.

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). DHS 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 Reference Tables Manual (RFT).

The present case concerns a denial of an application requesting MA benefits. It was not disputed that Claimant received ongoing Retirement, Survivors, Disability Insurance payments. The receipt of RSDI makes it probable that Claimant receives RSDI benefits for being a disabled individual. Thus, SSI-related MA policy is applicable.

The SSI-related MA benefit asset limit is \$2,000 for a group size of one. BEM 400 at 5. It was not disputed that the present case involves the value of an annuity Claimant earned during former employment. The value of the annuity fluctuated depending on the date, but it was not disputed that its value was substantially more than the \$2,000 asset limit for SSI-related MA benefits. What was disputed was whether the asset was countable.

For SSI-related MA benefits, the value of an annuity is the amount of money the person can currently withdraw from the plan. *Id.* at 18. DHS assumed that Claimant's entire annuity balance was available for withdrawal by Claimant. DHS presented no evidence to justify the assumption. A letter dated 4/27/11 (Exhibits 3-4) from a financial service sheds light on the issue of availability. Under a heading of "post-termination rules" it is stated that "if an employee is less than age 55, 100% of employee accumulations are available. If employee is age 55 or older, 100% of total accumulations are available." A breakdown of the annuity was also provided as \$485.91 from the source of "employer" and a total of \$84,647.90 from "university match" (Claimant's former employer was a university). An attached summary also noted that "100% accumulation is available at age 55 or older".

The letter from the financial service was persuasive evidence that no part of Claimant's annuity is currently available to Claimant because the entire balance was contributed by the employer and Claimant is under 55 years old. No evidence was presented to suggest otherwise. It is found that Claimant may not withdraw money from his annuity until he turns 55 years of age. Accordingly, it is found that Claimant's annuity was not a countable asset and that DHS erred in denying Claimant's application for MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS:

- (1) reinstate Claimant's application dated 12/19/11 requesting MA benefits;

- (2) process Claimant's application subject to the finding that Claimant's annuity is not a countable asset; and
- (3) supplement Claimant for any MA benefits not received as a result of the improper denial.

The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 17, 2012

Date Mailed: July 17, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

