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

IN THE MATTER OF:



Reg. No.:201Issue No.:200Case No.:100Hearing Date:AprCounty:Was

2013-13736 2000

April 17, 2013 Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on Apr il 17, 2013 from Lansing, Mich igan. Participants on behalf of Claimant included **Example and Example 1** Participants on behalf of Department of Human Services (Department) included **Example 1** and **Example 1** and

ISSUE

Due to exc ess assets, did the Department properly deny the Claim ant's application for Medical Assistance (MA)?

FINDINGS OF FACT

I find as material fact, based on the compet ent, material, and subs tantial evidence on the whole record:

- 1. On October 1, 2012, the Claimant applied for MA.
- 2. As of October 31, 2012, the Claimant had a 401k account with a balance of \$
- 3. On October 31, 2012, the Department denied the Claimant's MA application for excess assets.
- 4. On November 13, 2012, the Claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The MA program is established by the Titl e XIX of the Social Security Act and is implemented by T itle 42 of t he Code of F ederal Regulations (CFR). The Department

(formerly known as the Fa mily Independence Agenc y) admin isters the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Assets must be cons idered in determining el igibility for FIP, SD A, RAPC, LIF, G2U, G2C, SSI-related MA categories, AMP and FAP. (BEM 400).

Assets mean cash, any other personal property and real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominium s are real property. **Personal property** is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles). (BEM 400).

The Department determines asset eligibility prospectively using the asset group's assets from the benefit month. Asse t eligibility exists when the group's countable assets are less than, or equal to, the applic able asset limit at least one day during the month being tested. Countable assets c annot exc eed the applicable as set limit. All other SSI-related MA categories have an asset limit of \$3,000 for an asset group of two and \$2,000 for a group size of one. (BEM 400).

An asset is countable if it meets the avail ability tests and is not excluded. Available means that someone in the ass et group has t he legal right to use or dis pose of the asset. Assume an as set is available unles s evidence shows it is not available. (BEM 400).

In this case there was no dispute as to the value of the 401k account and no argument presented by the Claimant as to whether the asset was usable and available or whether or not the Claimant did or did not have the legal right to use or dispose of it. Therefore, based upon the testimony and exhibits pres ented, I find the 401k account belonged to the Claimant and the Cla imant had the legal right to us e and dispose of the asset. I further find that there existed no barriers as to the Claimant 's ability to use the asset s and that they were available to her at all times.

Based upon the abov e Findings of Fact and Conclus ions of Law, and for the reasons stated on the record, I conclude the D epartment properly denied the Claimant's application for MA benefits.

Additionally, I was a bit confused as there appear to have been two different notices of case action issued in this case. There was no dispute as t o one bein g issued o n October 31, 2012 which lead to this heari ng; but the confusing part was the one included in the hearing packe t was from a date which ar ose after the Claimant had already requested the hearing.

DECISION AND ORDER

I find based upon the above F indings of Fa ct and Conclusions of Law, and for the reasons stated on the record, the Department did act properly.

Accordingly, the Department's MA decision is AFFIRMED.

fact

Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: April 18, 2013

Date Mailed: April 18, 2013

NOTICE: Michigan Administrative Hearing S ystem (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 Dec ision and Order. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 receipt of the Decision and Order or, if a ti mely 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 <u>MAY</u> 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address ot her relevant iss ues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative hearings

Recons ideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

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