

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-15023
Issue No.: 2000, 2006, 2018
Case No.: [REDACTED]
Hearing Date: May 23, 2013
County: Macomb-20 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 Claimant's request for a hearing. After due notice, a telephone hearing was held on May 23, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Due to excess assets, did the Department properly deny the Claimant's application for Medical Assistance (MA)?

Did the Department properly deny the Claimant's application for State Disability Assistance (SDA) for failing to apply for SSI benefits?

FINDINGS OF FACT

I find as material fact, based on the competent, material, and substantial evidence on the whole record:

1. On September 25, 2012, the Claimant applied for SDA and MA benefits.
2. On October 3, 2012, the Claimant a verification checklist and notice to apply. The verification checklist requested verifications regarding the Claimant's income and assets and was due by October 15, 2012. The notice to apply indicated the Claimant had to apply for SSI benefits by October 15, 2012.
3. On October 10, 2012, the Claimant returned the requested verifications.
4. Between October 3, 2012 and November 13, 2012, the Claimant failed to apply for SSI benefits.
5. On November 13, 2012, the Department denied the Claimant's application for SDA and MA benefits. The Department denied the Claimant's SDA application due to

excess assets and denied the MA portion due to the Claimant's failure to apply for SSI benefits.

6. On November 19, 2012, the Claimant requested a hearing to dispute the MA and SDA application denial.

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 Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The SDA program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151- 400.3180. Department policies are found in the Bridges Administrative Manual (BAM) and Bridges Eligibility Manual (BEM).

Assets must be considered in determining eligibility for FIP, SDA, 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. Condominiums 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. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. Countable assets cannot exceed the applicable asset 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. The SDA program has an asset limit of \$3,000. (BEM 400).

An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Assume an asset is available unless 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 presented, I find the 401k account belonged to the Claimant and the Claimant had the legal right to use and dispose of the asset. I

further find that there existed no barriers as to the Claimant's ability to use the assets and that they were available to her at all times.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, I conclude the Department properly denied the Claimant's application for MA benefits based upon the Claimant having excess assets for the program being applied for. In addition, the Department could have also denied the Claimant's SDA portion of the application for having excess assets.

Additionally, the Department is to refer SDA clients to the Social Security Administration (SSA) to apply for SSI when they also receive MA based on a medical review team (MRT) decision that they are blind or disabled.

SDA clients receiving disability-related MA must comply with the requirements listed in BEM 271. These clients must also cooperate with all SSA requirements and procedures when applying for SSI benefits. Failure to comply as required results in group ineligibility for SDA. See BEM 271.

Based upon the competent, material and substantial evidence presented, I find the Claimant failed to timely file an SSI application as requested by the Department to maintain their eligibility for MA benefits and SDA benefits. Therefore the Agency's actions were in compliance with departmental policy (BEM 271).

DECISION AND ORDER

I find based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did act properly.

Accordingly, the Department's MA and SDA decision is **AFFIRMED**.



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

Date Signed: May 24, 2013

Date Mailed: May 24, 2013

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.

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

CAA/las

cc:

