

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.: 201346778
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: July 24, 2013
County: SSPC West

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on July 24, 2013. Claimant appeared and testified. Department representatives included [REDACTED].

ISSUE

Did the Department of Human Services properly deny Claimant's April 18, 2013, Medical Assistance (MA) application 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 April 18, 2013, Claimant submitted an application for Medical Assistance (MA) and retroactive Medical Assistance (MA).
- (2) On April 29, 2013, Claimant was sent a Notice of Case Action (DHS-1605) stating her application was denied.
- (3) On May 13, 2013, Claimant submitted a request for hearing.

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 Program Reference Manual (PRM).

In this case Claimant is only concerned about her eligibility for March 2013, when she had large medical bills. Claimant does not dispute that she had more than the [REDACTED] asset limit applicable in her bank account during March 2013. Claimant asserts her balance was only that high because she had received her tax refund. Department of Human Services Bridges Eligibility Manual (BEM) 400 (2013) directs:

Tax Refund and Tax Credit Exclusion

LIF, G2U, G2C, SSI-Related MA and AMP

Exclude tax credits for nine months after the month of receipt. Tax credits include credits such as Earned Income Tax Credit and Child Tax Credit.

Exclude tax refunds.

Use this exclusion only if the funds are not commingled with countable assets and are not in time deposits.

Claimant does not dispute that she commingled her tax refund with her other cash. Claimant argued that if she had known what Department policy said she would have handled her tax refund differently. Claimant asserts there was no way for her to know what Department policy said about tax refunds.

The Department's policies are available on the internet through the Department's website so there is not a "notice" issue in this case. Additionally, it is well-settled law that an administrative adjudicator does not have authority to decide constitutional issues. *Dation v Ford Motor Co*, 314 Mich 152 (1946); *Flanigan v Reo Motors, Inc*, 300 Mich 359 (1942); *Mackin v Detroit Timkin Axle Co*, 187 Mich 8 (1915).

A detailed analysis of the evidence presented, applicable Department policies, and reasoning for the decision are contained in the recorded record. During the hearing Claimant was informed of the decision and the reasoning behind the decision.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's April 18, 2013 Medical Assistance (MA) application due to excess assets.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 07/29/2013

Date Mailed: 07/30/2013

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.

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

GFH/sw

cc:

