

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-50575  
Issue No(s): 2018  
Case No.: [REDACTED]  
Hearing Date: October 31, 2013  
County: Washtenaw

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held at the Washtenaw County DHS Department of Human Services (Department) office. Participants on behalf of Claimant included [REDACTED], [REDACTED] and [REDACTED] from Representative [REDACTED] office. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED].

**ISSUE**

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

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, including the testimony at the hearing, finds as material fact:

1. Claimant applied for MA benefits.
2. Due to excess assets, on May 24, 2013, the Department denied Claimant's application with an effective date of July 1, 2013, and sent Claimant/Claimant's Authorized Representative (AR) its decision.
3. On June 3, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

### CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Assets must be considered in determining eligibility for FIP, SDA, RCA, LIF, G2U, G2C, SSI-related MA categories, AMP and FAP. BEM 400, p 1, 7/1/13. All types of assets are considered for SSI-related MA categories, including retirement plans. BEM 400, pp 1-2, 7/1/13. Retirement plans include annuities. BEM 400, p 2, 7/1/13. The value of annuities is the amount of money the person can currently withdraw from the plan. The early withdrawal penalty may be deducted, but not the amount of taxes due. Funds in a plan are **not** available if the person must quit his job to withdraw any money. BEM 400, p 18, 7/1/13.

The asset limit for a group of one is \$2,000.00. The limit is \$3,000.00 for a group of two. (BEM 400, p 6, 7/1/13). Claimant's group size is two.

In this case, Claimant has a [REDACTED] annuity through [REDACTED]. Claimant contends that she does not have access to the funds in her annuity because the funds are restricted until she turns 55. Claimant is currently 53. According to the terms of the annuity:

After separating from service employee accumulations are available for distribution at any age. Employer accumulations are available only after attaining a minimum age of 55.

Claimant's employer accumulation is \$ [REDACTED] as of 5/15/13. The employee accumulation is \$ [REDACTED]. Therefore, in accord with the terms of the annuity, the employee accumulation of \$ [REDACTED] is available for distribution at any age and the \$ [REDACTED] is not available for distribution until Claimant reaches the age of 55.

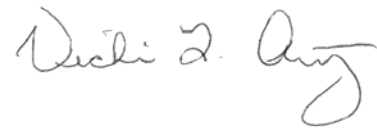
Claimant testified at the hearing that in a telephone conversation with [REDACTED] it was explained that Claimant is restricted from accessing any part of the annuity until she reaches the age of 55. At Claimant's request, the hearing record was left open for one week to allow Claimant to provide documentation from [REDACTED] substantiating her testimony.

On November 6, 2013, this Administrative Law Judge received a fax from the department with an attached email from [REDACTED] of Representative [REDACTED] office. The email indicated that Claimant does not have access to any of the funds in her 403B or 401A until she reaches the age of 55. However, this Administrative Law Judge has not received any documentation from [REDACTED], which was the agreed upon documentation in exchange for leaving the record open.

Based upon the above Findings of Fact and Conclusions of Law, and the only documentation from [REDACTED] in evidence, the Administrative Law Judge finds that the Department acted in accordance with Department policy when it denied Claimant's MA application.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.



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Vicki L. Armstrong  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 18, 2013

Date Mailed: November 19, 2013

**NOTICE OF APPEAL:** 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

VLA/las

cc:

