

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-13736  
Issue No.: 2000  
Case No.: [REDACTED]  
Hearing Date: April 17, 2013  
County: 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 Claimant's request for a hearing. After due notice, a telephone hearing was held on April 17, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

**ISSUE**

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

**FINDINGS OF FACT**

I find as material fact, based on the competent, material, and substantial 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 \$ [REDACTED].
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 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.

Assets must be considered in determining eligibility 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. 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. (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.

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 to one being issued on October 31, 2012 which led to this hearing; but the confusing part was the one included in the hearing packet was from a date which arose after the Claimant had already requested the hearing.

### **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 decision is **AFFIRMED**.



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 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:

