

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

IN THE MATTER OF:



Reg. No.: 2014-25798
Issue No.: 2001
Case No.:
Hearing Date: March 12, 2014
County: Livingston

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, telephone hearing was held on Wednesday, March 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included , ES.

ISSUE

Due to excess assets, did the Department properly deny Claimant's application for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> State Emergency Relief (SER)? |

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 December 16, 2013, the Department denied Claimant's application.
3. On December 16, 2013, the Department sent Claimant its decision.
4. On January 27, 2014, Claimant 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.

Additionally, the Claimant applied for MA on December 11, 2013. The Claimant had a [REDACTED] with her [REDACTED] that had a value of \$ [REDACTED] Department Exhibit a-c. As a result, the Claimant was over the asset limit for MA of \$ [REDACTED] and failed the Asset Eligibility Test with assets valued at \$ [REDACTED] Department Exhibit 34-37. The Claimant did not provide written verification that the funds were not available at the time that the Department denied her MA application. On December 16, 2013, the Department Caseworker sent the Claimant a notice that she was excess assets. Department Exhibit 4-6.

BEM 400, ASSETS

AVAILABLE, page 8

FIP, SDA, G2U, G2C, RMA, SSI-Related MA Only, and FAP

An asset must be available to be countable. 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.

FIP, SDA, G2U, G2C, RMA, SSI-Related MA Only, and FAP, page 23

This section is about the following types of assets:

Individual retirement accounts (IRAs).

Keogh plans (also called H.R. 10 plans).

401k plans.

Deferred compensation.

Pension plans.

Annuities-- An annuity is a written contract establishing a right to receive specified, periodic payments for life or for a term of years.

Retirement Plan Value, page 24

FIP, SDA, G2U, G2C, RMA, SSI-Related MA Only

The value of these plans is the amount of money the person can currently withdraw from the plan. Deduct any early withdrawal pen-alty, but not the amount of any taxes due.

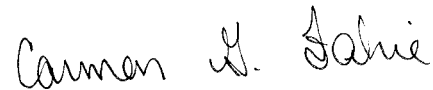
Funds in a plan are not available if the person must quit his job to withdraw any money.

This Administrative Law Judge finds that the Claimant had excess assets for MA. Therefore, the Department has met its burden that it correctly determined that the Claimant had excess assets for MA eligibility.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it properly determined that the Claimant had excess assets for MA eligibility .

DECISION AND ORDER

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



Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/26/14

Date Mailed: 3/27/14

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

CGF/tb

cc:

