

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22669
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Jackson

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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, a telephone hearing was held on February 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's Designated Hearing Representative (DHR) [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for Medicaid (MA) benefits?

FINDINGS OF FACT

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

1. Claimant, through [REDACTED] applied for MA on October 8, 2013, seeking retroactive MA for the months of July, August, and September 2013.
2. In response to a verification checklist, Claimant submitted copies of financial records, including a 401(k) in his wife's name showing a vested balance of [REDACTED] as of July 1, 2013. Exhibit 1 Page 46.
3. On August 5, 2013, Claimant's wife received a distribution of [REDACTED] from her 401(k). Exhibit 1 Page 47.
4. Because Claimant's wife's 401(k) contained assets in excess of the allowable limits, Claimant's application was denied in a Notice of Case Action dated November 7, 2013. Exhibit 1 Pages 68-72.
5. Claimant requested a hearing on January 17, 2014.

CONCLUSIONS OF LAW

Department policies are contained 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.


Claimant provided statements showing that he and his wife had more than \$3,000 in assets during the months of July through October 2013. Per BEM 400, p. 7, the MA limit is \$2,000 for an individual and \$3,000 for a couple. Claimant's 401(k) is clearly in excess of the allowable limits for MA. Claimant's DHR did not contend that the Claimant was eligible for benefits in August or September; the only month in dispute was July.

Claimant's DHR testified that, prior to the August 5 distribution from the 401(k) the retirement account was not a countable asset. Policy regarding assets is defined in BEM 400. At page 1, "Assets mean cash, any other personal property and real property." At page 8, "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." Claimant's wife was able to withdraw money from her 401(k) as evidenced by the fact that she received funds from the account in August. Therefore, because his wife was part of the group and she had the legal right to use or dispose of the 401(k), it was a countable asset.

The Administrative Law Judge, based on 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 denied Claimant's application for FAP and MA.

DECISION AND ORDER

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


Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2014

Date Mailed: February 21, 2014

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

DTJ/las

cc:

