

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.: 20111380
Issue No.: 2021; 3000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 3, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 3, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly terminated Claimant's Medical Assistance (MA) benefits due to excess assets.
2. Whether DHS properly failed to issue Food Assistance Program (FAP) benefits to Claimant when Claimant never applied for FAP benefits.

FINDINGS OF FACT

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

1. Claimant was an ongoing MA benefits recipient.
2. Claimant's MA benefit period was scheduled to end 8/31/10.
3. DHS mailed Claimant a Redetermination so that Claimant's MA benefits could be redetermined.
4. Claimant submitted the Redetermination (Exhibit 2) to DHS on 8/6/10.

5. Claimant indicated on the Redetermination that she had \$7,000 in assets.
6. Claimant also submitted a savings account statement (Exhibit 4) which verified that Claimant's lowest daily balance for the statement was \$6761.25.
7. On an unspecified date, DHS denied Claimant's redetermination of MA benefits due to excess assets.
8. Claimant requested a hearing on 9/8/10 concerning the DHS denial of MA benefits and a failure by DHS to issue Food Assistance Program benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

BAM 600 lists the circumstances in which a hearing may be granted. The circumstances are: denial of an application and/or supplemental payments, reduction in the amount of program benefits or service, suspension or termination of program benefits or service restrictions under which benefits or services are provided or delay of any action beyond standards of promptness. BAM 600 at 3.

In the present case, Claimant requested a hearing concerning FAP benefits. Claimant testified that she was receiving cash benefits and expected DHS to convert her cash benefits into FAP benefits. Claimant never applied for FAP benefits. Claimant has the right to apply for FAP benefits. BAM 105 at 1. However, Claimant is not entitled to a hearing concerning a failure to receive FAP benefits when Claimant never applied for them. Without applying for FAP benefits, Claimant could not establish any of the aforementioned circumstances to receive a hearing concerning FAP benefits. Accordingly, Claimant's hearing requesting concerning not receiving FAP benefits is appropriately dismissed.

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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. As a disabled individual, Claimant's most beneficial MA program is through Aged-Disabled Care (AD-Care).

For AD-Care asset-eligibility, countable assets cannot exceed the asset limit in BEM 400. BEM 163 at 1. The asset limit for a one-person AD-Care group is \$2,000. BEM 400 at 5. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. *Id* at 4.


AD-Care is a SSI-related category. All types of assets are considered for SSI-related MA categories. *Id* at 2. Such countable assets include, but are not limited to: cash on hand, checking and savings account balances, investments, retirement plans and trusts.

DHS budgeted (Exhibit 5) Claimant's assets as \$7296.29. DHS should have used the lowest account balance for the month being tested. As DHS was determining Claimant's asset-eligibility for a future month (9/2010), DHS had no way to know what Claimant's lowest asset amount would be. The undersigned interprets DHS regulations to require DHS to use the lowest asset amount based on the statement provided by Claimant. Claimant provided a bank statement which covered 7/20/10-8/19/10. Claimant's lowest daily account balance within the statement was \$6761.25. Claimant's lowest balance exceeded the MA asset limit of \$2,000. It is found that DHS properly terminated Claimant's MA benefits due to excess-assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish an adverse action taken by DHS concerning FAP benefits as Claimant never applied for FAP benefits. Claimant's hearing request is partially DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA benefits due to excess assets. The actions taken by DHS are AFFIRMED


Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 5, 2010

Date Mailed: November 5, 2010

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 60 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.

CG/hw

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