

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-26525
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: August 3, 2011
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Wednesday, August 3, 2011 from Lansing, Michigan. Participants on behalf of Claimant included the claimant's son and court conservator, [REDACTED] and the claimant's attorney, [REDACTED] from [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES.

ISSUE

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

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

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 benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> State Disability Assistance (SDA). |

2. Due to excess assets, on March 15, 2011, the Department

denied Claimant's application. closed Claimant's case.

3. On March 15, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On March 23, 2011, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Medical Assistance (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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, R 400.3151 through Rule 400.3180.

Additionally, the claimant applied for MA benefits on December 20, 2010 for long term care with retro benefits to October 2010. Department Exhibit 13-19. On February 16, 2011, the department caseworker received verification that the life insurance policy had not been cashed out until January 5, 2011. Department Exhibit 8. The claimant was granted MA from January 2011 forward, but was denied for the months of October, November, and December 2010 because of the \$3,360.19 cash surrender value of her life insurance policy, which made her have excess assets for MA benefit qualification.

The claimant's son and conservator did try to cash out the life insurance policy on [REDACTED] so that his mother could qualify for benefits. Department Exhibit 6. The insurance company would not allow him to cash out the policy without reviewing the authority of the conservatorship under Michigan law to carry out the transaction.

Department Exhibit 7. The funds were released to the claimant's conservator on [REDACTED]. Department Exhibit 6.

This Administrative Law Judge finds that department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied the claimant's December 20, 2010 application for excess assets for the months of October, November, and December 2010. The life insurance company did their due diligence in reviewing the conservatorship before releasing the funds in a reasonable amount of time from the [REDACTED] request date to the late [REDACTED] release of the funds. The cash surrender value of the life insurance policy was available to the claimant, if not to her son, as conservator without an initial legal review by insurance company.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess assets, the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

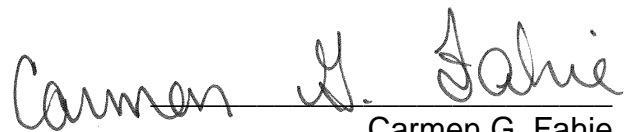
for: AMP FIP MA SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's AMP FIP MA SDA decision is
 AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:



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

Date Signed: January 11, 2012

Date Mailed: January 11, 2012

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

CGF/hw

cc:

