

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2011-45922  
Issue No.: 2021  
Case No.: [REDACTED]  
Hearing Date: September 21, 2011  
County: Ingham

**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, September 21, 2011, from Lansing, Michigan. Participants on behalf of Claimant included Claimant's daughter, [REDACTED], POA, and attorney, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Due to excess assets, did the Department properly  deny 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 May 23, 2011, the Department  
 denied Claimant's application.     closed Claimant's case.
3. On May 23, 2011, the Department sent  
 Claimant     Claimant's Authorized Representative (AR)  
notice of the     denial.     closure.
4. On July 11, 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 AACS, R 400.3151 through Rule 400.3180.

Additionally, Claimant applied for MA benefits on February 17, 2011. Claimant had two (2) properties listed in his name. The first property was [REDACTED], which was determined to be Claimant's homestead property and exempt from being counted as an asset. The second property was [REDACTED]. According to the daughter's testimony, the [REDACTED] property has been rental property since 1998. It currently has no tenants according to the Department.

Claimant's attorney submitted a certificate of compliance for a rental dwelling that certifies the dwelling until April 1, 2011. Claimant Exhibits 10-11. A newspaper ad ran offering the [REDACTED] property for rent from [REDACTED]. Claimant Exhibit 9. In addition, a copy of a new lease was submitted starting June 1,

2011, for \$700 per month for a month-to-month lease with a \$100 deduction for repairs made to the property. Claimant Exhibits 1-8. Claimant's attorney contends that the rental property is a business and should be an exempt asset.

### **Income-Producing Real Property**

#### **SSI-Related MA**

Exclude up to \$6000 of equity in income-producing real property if it produces annual countable income equal to at least six percent of the asset group's equity in the asset. Countable income is total proceeds minus actual operating expenses.

Use the Employment Asset Exclusions in this item for property used in a business or trade. BEM 400, page 28.

#### **EMPLOYMENT ASSET EXCLUSIONS**

General Employment Exclusion  
SSI-Related MA and FAP

Exclude employment assets (see above) that:

- Are required by a person's employer.
- Produce income directly through their use.

Such assets remain excluded when a person is unemployed only if the person intends to return to that type of work. BEM, Page 41-42.

This Administrative Law finds that the rental property is not a business exemptable by the employment asset exclusions. It is just rental property available for rent for persons to live in. As a result, the rental property at Stirling is a countable asset.

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.

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

Date Signed: \_\_\_\_\_

Date Mailed: \_\_\_\_\_

**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. (60 days for FAP cases)

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.

2011-45922/CGF

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/pf

cc:

