

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201219053
Issue No.: 2001, 2023, 3015, 4013
Case No.: [REDACTED]
Hearing Date: February 13, 2012
County: Macomb DHS (36)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 13, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly factored Claimant's spouse in the determinations for Medical Assistance (MA), Food Assistance Program (FAP) and State Disability Assistance (SDA).

The second issue is whether DHS properly denied Adult Medical Program (AMP) benefits to Claimant's adult child.

The third issue is whether DHS properly denied FAP and SDA benefits to Claimant based on excess income.

The fourth issue is whether DHS properly denied Claimant's application for MA benefits based on excess assets.

FINDINGS OF FACT

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

1. On 11/28/11, Claimant's spouse applied for FAP, MA and cash benefits (see Exhibit 2).

2. Claimant was part of a household that included herself, her spouse and her 22 year old son.
3. Claimant's son was a full-time student in college.
4. Claimant's spouse received income of \$1732.30/month from Retirement, Survivors, Disability Insurance (RSDI) and \$1444.86/month in a pension.
5. Claimant and her spouse owned three vehicles, a [REDACTED], [REDACTED], [REDACTED]
6. DHS determined [REDACTED] and [REDACTED] are respectively worth \$5450 and \$1900.
7. On 12/1/11, DHS determined Claimant was ineligible for FAP and SDA benefits due to income, MA benefits due to assets and Claimant's son was ineligible for AMP benefits due to a freeze on new enrollments (see Exhibit 1).
8. On 12/6/11, Claimant requested a hearing to dispute the entire DHS determinations.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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 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.

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

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

In the present case, DHS determined Claimant was ineligible for FAP and SDA benefits due to income. Both determinations factored Claimant's spouse as a household member.

Claimant testified that her spouse left the household on 11/30/11 and that DHS improperly factored his household presence in the benefit determinations. It is possible that Claimant's spouse left the household two days after he submitted an Assistance Application (Exhibit 2) to DHS. Claimant conceded that she did not report any changes in the household to DHS prior to the application processing on 12/1/11. DHS cannot be faulted for processing the application as it was submitted without anything to inform them otherwise. It is found that DHS properly considered Claimant's spouse as a household member. As discussed during the hearing, Claimant should reapply for benefits based on the updated household information.

DHS denied FAP benefits because of household excess income. DHS properly based the determination on a two-person FAP benefit group because Claimant's adult son was excluded as a full-time student who failed to meet any exceptions to student status policy (see BEM 245). FAP budgets were not presented but based on the information presented within the Assistance Application (\$3177.16 in monthly income, unspecified medical expenses, \$700/year in property insurance and \$2950.10/year in property taxes, DHS properly determined that Claimant's household had excess income for FAP benefits. Similarly, DHS properly determined that Claimant had excess income for SDA benefits.

Claimant also disputed the denial of MA benefits to her 22 year old son. The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant,

or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants.

Claimant testified that her son was disabled because he had asthma. This was not indicated in the Assistance Application. Thus, DHS properly did not consider MA for Claimant's son as a disabled individual. Thus, Claimant's son did not meet any of the categories to be eligible for Medicaid and AMP would be the only applicable MA program for which eligibility could be considered. At the time of Claimant's application, AMP enrollments were frozen. Accordingly, DHS properly denied MA benefits to Claimant's son.

Lastly, Claimant disputed the denial of MA benefits to her as a potentially disabled individual. The Assistance Application alleged that Claimant was disabled because of diabetes. Disability is a potential category to receive Medicaid. DHS did not consider Claimant's potential disability because of alleged excess assets in the form of vehicles and a \$2,000 bank account balance.

It was not disputed that the [REDACTED] was a vehicle exempt from the MA benefit determination. DHS contended that the other two vehicles were not exempt and the value with the bank account pushed Claimant over the MA benefit asset limit.

For SSI-related MA categories, the asset limit for a group of two persons (Claimant and her spouse) is \$3,000. BEM 400 at 5. For SSI-related MA categories, the vehicle value is the equity value. *Id.* at 29. This implies that vehicles are factored into the SSI-related MA asset determination.

DHS presented evidence (Exhibit 3) of how the value of Claimant's two non-exempt vehicles were calculated. DHS used actual mileage to determine each vehicle's value. DHS determined a [REDACTED] was worth \$5450 based on a mileage of 60,000. DHS determined a [REDACTED] was valued at \$1900 based on a mileage of 100,000. To determine a vehicle's value,

DHS is to consider the greater of actual mileage or 12,000 per year. *Id.* at 46. Using a mileage of 12,000/year, DHS should have determined the [REDACTED] value based on a mileage of 156,000 and the [REDACTED] based on a mileage of 120,000. Though DHS understandably used actual mileage to determine the value of the vehicles, DHS was required to use a more generous standard. It is found that DHS improperly determined the value of Claimant's vehicles due to factoring an improper mileage.

It should be noted that the yet to be determined value of the vehicles may result in denial of Claimant's MA benefit application. It should also be noted that DHS is required to follow specific policies in determining bank account information. DHS did not bother to request any bank account information from Claimant based on the finding that Claimant had excess assets.

For MA benefits, 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. DHS cannot make any findings to Claimant's lowest bank balance was because no verification was requested. It is found that DHS also erred in failing to consider Claimant's asset eligibility based on a lowest daily balance of Claimant's bank account.

DECISION AND ORDER

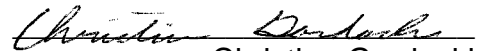
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when denying FAP, SDA and AMP benefits .
- did not act properly when determining the value of Claimant's vehicles in determining Claimant's assets for MA benefit eligibility.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED PARTIALLY 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:

1. reinstate Claimant's application dated 11/28/11 concerning MA benefits for Claimant;
2. redetermine Claimant's asset eligibility based on the following mileage for Claimant's vehicles: 156,000 for the 1999 Grand Am and 120,000 for the Chevy Silverado; and
3. redetermine Claimant's asset eligibility based on a lowest daily balance from bank verifications which have yet to be requested from Claimant.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2012

Date Mailed: February 21, 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. (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.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

