

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

IN THE MATTER OF:



Reg. No.: 2012-29392
Issue No.: 2021, 3021
Case No.:
Hearing Date: February 29, 2012
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 29, 2012 from Lansing, Michigan. Participants on behalf of Claimant included . Participants on behalf of Department of Human Services (Department) included (Eligibility Specialist) and (Assistance Payments Supervisor).

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 checked="" type="checkbox"/> Food Assistance Program (FAP)? |
| <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 checked="" type="checkbox"/> Food Assistance Program (FAP)? |
| <input type="checkbox"/> State Disability Assistance (SDA). | |

2. Due to excess assets, on January 20, 2012, the Department denied Claimant's application. closed Claimant's case.

3. On January 20, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On January 27, 2012, 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 FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. Agency policies pertaining to the FAP are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230A.

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 1997 AACS R 400.3101-3131. 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 1998-2000 AACS R 400.3151-400.3180.

Effective October 1, 2011, the Department considers assets when determining eligibility for Medicaid Group 2 (MA-G2C) and FAP. BEM 400. "Assets" are defined as cash, including any other personal property and real property. BEM 400. Countable assets cannot exceed the applicable asset limit. BEM 400. Not all assets are counted. BEM 400. In order to determine whether, and how much of, an asset is countable, the Department must consider both its availability and whether it is excluded. BEM 400. In other words, an asset is countable if it meets the availability tests and is not excluded. BEM 400. 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. The FAP asset limit

is \$5,000 (five thousand dollars). BEM 400. The asset limit for MA-G2C is \$3,000 (three thousand dollars). BEM 400.

BEM 400 identifies "time deposits" as assets. A time deposit is a contract between a person and a financial institution whereby the person agrees to leave funds on deposit for a specified period in return for a specified interest rate. BEM 400. Common time deposits are certificates of deposit (CDs) and savings certificates. BEM 400.

In this matter, the Department denied Claimant's application based on excess assets. At the time of application, Claimant was the account holder of 2 (two) certificates of deposit (CDs) in the amounts of [REDACTED] and [REDACTED] for the benefit of her two minor children. Claimant contends that the CDs were for the benefit of her children and should not be considered Claimant's countable assets. According to the CDs, Claimant could withdraw funds from the CDs, but she would have to pay a penalty. Neither of Claimant's children could control the CDs until they reached the age of 25 (twenty-five) years. Both CDs are Claimant's countable assets because only Claimant has the legal right to use and/or dispose of the CDs. The CDs at issue are not trusts, retirement plans or annuities.

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 FAP 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 FAP 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:

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/6/12

Date Mailed: 3/6/12

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 mailing 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

CAP/ds

cc:

