

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

**IN THE MATTER OF:**



Reg. No.: 2012-70127  
Issue No.: 2010  
Case No.: [REDACTED]  
Hearing Date: November 26, 2012  
County: Wayne (82)

**ADMINISTRATIVE LAW JUDGE:** Michael J. Bennane

**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 [REDACTED] from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]

Participants on behalf of the Department of Human Services (Department) included [REDACTED]

**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)? |
| <input type="checkbox"/> Food Assistance Program (FAP)?      |   |

**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). |
| <input type="checkbox"/> Food Assistance Program (FAP)       |   |

2. Due to excess assets, on May 1, 2012, the Department  
 denied Claimant's application.  closed Claimant's case.
3. On July 11, 2012, the Department sent  
 Claimant  Claimant's Authorized Representative (AR)  
notice of the  denial.  closure.
4. On August 8, 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 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, Rule 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 AACR, Rule 400.3151 through Rule 400.3180.

In the instant case the department found that the purchase of an annuity on [REDACTED] was a divestment of assets.

Divestment results in a penalty period in MA, **not** ineligibility. Divestment policy does **not** apply to Qualified Working Individuals; see BEM 169.

Divestment is a type of transfer of a resource and not an amount of resources transferred.

Divestment means a transfer of a resource (see RESOURCE DEFINED below and in glossary) by a client or his spouse that are **all** of the following:

Is within a specified time; see LOOK-BACK PERIOD in this item.

Is a transfer for LESS THAN FAIR MARKET VALUE (see definition in glossary).

Is not listed below under TRANSFERS THAT ARE NOT DIVESTMENT

The department's interpretation fails in that the look back period begins with the application on May 1, 2012. The annuity was purchased on February 10, 2006, which is well outside of the "look-back period of 60 months. (PEM 405, p.1; January 1, 2006).

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     (FAP).

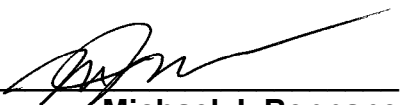
**DECISION AND ORDER**

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  (FAP) 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:

1. Initiate re-registration and reprocess the claimant's May 1, 2012 MA application.

  
\_\_\_\_\_  
**Michael J. Bennane**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: January 3, 2013

Date Mailed: January 3, 2013

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

MJB/cl

cc:

