

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

IN THE MATTER OF:



Reg. No.: 2012-10951
Issue No.: 3021
Case No.:
Hearing Date: December 14, 2011
County: Wexford

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 December 14, 2011 from Lansing, Michigan. Participants on behalf of Claimant included . Participants on behalf of Department of Human Services (Department) included , Family Independence Manager.

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 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 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 October 1, 2011, the Department denied Claimant's application. closed Claimant's case.

3. On September 20, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On September 27, 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 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.

According to applicable law and policy, assets must be considered in determining eligibility for FAP. BEM 400, p 1. An asset is defined as cash, any other personal property, and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts, and vehicles). BEM 400, p 1. Countable assets cannot exceed the applicable asset limit. BEM 499, p 1. The asset limit for FAP is \$5,000.00. BEM 400, p 4.

Here, the Department determined that the value of Claimant's 2011 Chapperal (Recreational Vehicle or R.V.) was [REDACTED] 0 and 2008 Chevy Truck [REDACTED]) exceeded the [REDACTED] FAP asset limit. BEM 400, the applicable portions which became effective October 1, 2011, and on which the Department relies in this case, unambiguously provides:

There is a \$15,000 limit on countable vehicles owned by the FAP group. Enter the fair market value of all licensed and unlicensed vehicles and the mileage. Do not allow for options such as low mileage, automatic transmission, power windows and power locks. Bridges adds together the fair market value of all licensed and unlicensed vehicles which are not excluded and subtracts \$15,000 to determine the countable value[.] If the countable value exceeds \$15,000 the excess is applied towards the \$5,000 asset limit. For instance, the value of the client's countable vehicles equals \$17,000. The remaining amount of \$2,000 is counted towards the \$5,000 asset limit. [BEM 400, p 28. (Emphasis added.)]

Here, the Department provided credible evidence indicating that the total fair market value of Claimant's vehicles was [REDACTED]. Subtracting [REDACTED], as required under BEM 400, the countable value of Claimant's assets was [REDACTED], which far exceeds the [REDACTED] FAP asset limit. The agency's action in this matter was not in error.

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.

/s/

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

Date Signed: 12/15/11

Date Mailed: 12/15/11

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

■ [REDACTED]
S