

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-11662
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: December 7, 2011
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 7, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

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"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, 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"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On October 26, 2011, the Department
 denied Claimant's application closed Claimant's case
due to excess assets.
3. On October 14, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 8, 2011, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 1999 AC, R 400.3101 through Rule 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 1999 AC, R 400.3001 through Rule 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 ACS, R 400.3151 through Rule 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 1999 AC, R 400.5001 through Rule 400.5015.

Additionally, on October 14, 2011, the Department sent Claimant a Notice of Case Action notifying him of the closure of his FAP case, effective October 26, 2011, because Claimant's assets exceeded the FAP asset limit.

Assets must be considered in determining eligibility for FAP. BEM 400; BEM 213. The FAP asset limit is \$5000. BEM 400. Cash, including bank accounts and savings, are assets. BEM 400. In order to verify the value of a bank account, the Department must consider the monthly statement or contact the financial institution by telephone. BEM 400.

In this case, in concluding that Claimant's assets exceeded the \$5000 FAP asset limit, the Department relied on the ending balances on bank statements for accounts held by Claimant and each of his two children: (i) the bank statement for ██████████ to ██████████ for Claimant, account number ending ██████████, showing an ending balance of ██████████ (ii) the bank statement for ██████████ to ██████████ for Claimant's child Jamee, account number ending ██████████ showing an ending balance of ██████████ and (iii) the bank statement for ██████████ to ██████████ for Claimant's child ██████████, account number ending ██████████, showing an ending balance of ██████████. The Department totaled the ending balance for all three accounts. Because the total, ██████████, exceeded the \$5000 FAP asset limit, the Department closed Claimant's FAP case on the basis of excess assets.

While the Department properly considered Claimant's monthly bank accounts in determining the value of the asset, BEM 400 also provides that asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. In light of the fact that the total value of Claimant's bank accounts was less than \$76 over the \$5000 FAP asset limit, the Department should have determined whether the value of the bank accounts exceeded \$5000 for all the days during the month being considered. By failing to do so, the Department failed to comply with Department policy.

Furthermore, Claimant testified that each of the two children had monthly direct deposits of \$301 in each of their respective bank accounts for Social Security benefits they received on behalf of their deceased mother. Money in a bank account may not be treated as both income and an asset for the same month for the same program. BEM 400; BEM 500. The Department conceded that it counted the \$301 each child received in Claimant's FAP budget. Because the Department considered the \$301 received by each of the two children in Claimant's FAP budget as income received by the group, it could not also consider the \$602 total received in the children's bank accounts as an

asset for the same benefit month at issue. Because the ending balances for each of the children's bank accounts included the \$301 which the Department had already accounted for in Claimant's FAP budget as income, the Department did not act in accordance with Department policy when it considered these sums in determining the value of the bank accounts.

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 the Department

- properly denied Claimant's application
- properly closed Claimant's case
- properly reduced Claimant's benefits
- improperly denied Claimant's application
- improperly closed Claimant's case
- improperly reduced Claimant's benefits

for: AMP FIP FAP MA SDA CDC.

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 FAP MA SDA CDC 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. Remove the negative action closing Claimant's FAP case;
2. Recalculate Claimant's FAP budget in accordance with Department policy;
3. Issue supplements for any FAP benefits Claimant was entitled to receive, but did not, for October 26, 2011 ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2011

Date Mailed: December 13, 2011

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

ACE/ctl

cc:

[REDACTED]

Wayne County DHS (43)/1843

[REDACTED]

A. Elkin

File