

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

IN THE MATTER OF:



Reg. No.: 20122734
Issue No.: 3021
Case No.:
Hearing Date: November 9, 2011
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 November 9, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Assistance Payments Manager.

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 1, 2011, the Department
 denied Claimant's application closed Claimant's case
due to excess assets.
3. On September 20, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On September 28, 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 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, Rule 400.3001 through Rule 400.3015.

BEM 400 requires that as of October 1, 2011, assets must be considered in determining eligibility for FAP. All retirement plans are excluded in determining countable assets for FAP. BEM 400, p. 19.

BEM 400, p. 4 sets the asset limit for eligibility for FAP at \$5,000.00.

BEM 400, p. 1 instructs:

Determine asset eligibility prospectively using the asset group's assets from the benefit month. 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 the present case, many of Claimant's listed assets were part of retirement plans, which are excluded assets. In addition, the Department presented no substantiation of current assets. Rather, the Department submitted proofs that were received into the Department in September of 2009. Claimant testified that he withdrew funds from an IRA recently and placed them into a savings account. The Department did not prove that the savings account was not under the asset limit at least one day during the month being tested as required by BEM 400, p. 1. I therefore cannot find that the Department was correct in closing Claimant's case due to excess assets.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, the Administrative Law Judge concludes that 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 FAP MA SDA CDC.

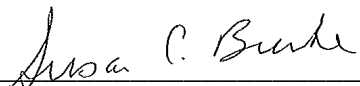
DECISION AND ORDER

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.

It is further ORDERED:

1. The Department shall initiate reinstatement of Claimant's FAP case, effective October 1, 2011, if Claimant is determined to be eligible based on current asset values not excluded by policy.
2. The Department shall initiate issuance of supplements for FAP, effective October 1, 2011, if Claimant is found to be eligible for FAP.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/16/11

Date Mailed: 11/16/11

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. (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

SCB/hw

cc:

