

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

IN THE MATTER OF:



Reg. No.: 2012-33293
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: April 26, 2012
County: Macomb (12)

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 April 26, 2012, 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)? |

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). |

2. Due to excess assets, on November 14, 2011, the Department denied Claimant's application. closed Claimant's case.

3. On November 14, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 21, 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 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.

Additionally, the Department based its decision on the claimant's ownership interest in real property. He owns a home at [REDACTED] and two properties in [REDACTED]. The [REDACTED] home qualifies as the claimant's homestead. Claimant states that the two properties in [REDACTED] are jointly owned with his ex-wife and that she refuses to sell either property. The Department cited BEM 400, p. 9, exception number 1.

JOINTLY OWNED ASSETS

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

Jointly owned assets are assets that have more than one owner.

For FTW determinations jointly owned assets are considered to belong to the initial person.

An asset is unavailable if an owner cannot sell or spend his share of an asset:

Without another owner's consent, and

The other owner is not in the asset group, and
The other owner refuses consent.

In SSI-related MA, when ownership is shared by an SSI-related child and his parent(s) and parental asset deeming applies, refusal to sell by either the child or the parent(s) does not make an asset unavailable.

Jointly owned real property is only excludable if it creates a hardship for the other owners; see hardship in this item. (BEM 400, p.9).

In the instant case, exception 1 above has no relevancy.

The Department makes the case that they have not been presented with any proof that the claimant's ex-wife refuses to sell either of the Gilmore Twp. properties.

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.

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 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. Upon presentation of evidence that the joint owner of the [REDACTED] properties are jointly owned and that the claimant's ex-wife refuses to sell either property, the properties are not available for sale and the Department will recalculate the claimant's assets without their inclusion. Similarly, the Department may not include the value of the claimant's home in [REDACTED] as it qualifies as his homestead.


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

Date Signed: May 14, 2012

Date Mailed: May 14, 2012

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 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:

