

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

**IN THE MATTER OF:**



Reg. No.: 201251729  
Issue No.: 2021  
Case No.:   
Hearing Date: September 6, 2012  
County: Wayne (19)

**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 September 6, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; Claimant's wife; and Lenette Spencer, Claimant's Authorized Hearing Representative. Participants on behalf of Department of Human Services (Department) included , Eligibility Specialist, and Raymond Cooper, Assistance Payment Supervisor.

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

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

- Direct Support Services (DSS).
- 2. On May 1, 2012, the Department  
 denied Claimant's application       closed Claimant's case  
due to excess assets.
- 3. On April 2, 2012, the Department sent  
 Claimant       Claimant's Authorized Representative (AR)  
notice of the       denial.       closure.
- 4. On May 7, 2012, Claimant filed a hearing request, protesting the  
 denial of the application.       closure of the case.

**CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 400.5015.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, *et. seq.*, and Mich Admin Code R 400.3603.

Additionally, the April 2, 2012 Notice of Case Action sent to Claimant closed his MA cases under the Disabled Adult Child (DAC) program and Medicare Saving Program (MSP), effective May 1, 2012.

Although the Notice specified that the reason for the case closure was that Claimant was not disabled, at the hearing, the Department acknowledged that Claimant was disabled. However, the Department testified that Claimant's case was closed because the value of his assets exceeded the asset limit for MA programs. To be eligible for DAC coverage, countable assets for an asset group of two (in this case, Claimant and his wife) cannot exceed \$3000. BEM 400 (April 1, 2012), p 5; BEM 211 (January 1, 2012), pp 5-6; BEM 158 (October 1, 2010), p 2; BEM 165 (October 1, 2010), p 6. The asset limit for an asset group size of two for MSP benefits is \$10,020. BEM 400, p 5.

In this case, in connection with Claimant's MA redetermination, the Department requested verification of Claimant's checking accounts. The Department testified that it received four checking account statements showing the following: (i) a [REDACTED] account owned by Claimant with an ending balance of \$1916.69 on [REDACTED]; (ii) a [REDACTED] account jointly owned by Claimant and his wife with an ending balance of \$1292.50 on March [REDACTED]; (iii) a Comerica account owned by Claimant's wife with an ending balance of \$142.55 on [REDACTED]; and (iv) a checking account owned by Claimant and his sister-in-law with an ending balance of \$17.07 on [REDACTED].

The value of a checking account is the amount of the money in the account. BEM 400, p 14. Because the total value of the accounts is less than \$10,200, the Department did not act in accordance with Department policy when it closed Claimant's MSP case.

Furthermore, the Department may not count funds treated as income by an MA program as an MA asset for the same month. BEM 400, p 16. In this case, the evidence at the hearing established that Claimant's and his wife's Retirement, Survivors and Disability Income (RSDI) benefits were deposited into the checking accounts. Thus, in calculating the value of the checking accounts, the Department was required to exclude the monthly RSDI income deposited into the accounts during the month being considered from the calculation of the value of the checking accounts. Because the Department

failed to do so, and had it done so, the value of the accounts would have been less than \$3000, the Department did not act in accordance with Department policy when it closed Claimant's DAC case on the basis that Claimant's assets exceeded the asset limit.

Furthermore, an asset must be available to be countable. BEM 400, p 6. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p 6. The Department did not present copies of the account statements at issue into evidence. Claimant's AHR credibly testified that ARC, an independent organization, was representative payee for Claimant for the account with the \$1916.69 balance. Under these facts, Claimant may not have the legal right to access the account. Because the Department did not verify that Claimant had legal access to the account, it did not act in accordance with Department policy when it attributed the value of this account towards the calculation of Claimant's assets.

Finally, before closing a client's MA case, the Department must conduct an ex parte review to determine whether the client is eligible under any other MA category. BAM 220 (May 1, 2012), p 14. The Department did not present any evidence that it considered Claimant's eligibility under other MA programs, particularly the Freedom to Work program, before closing his MA coverage under DAC. BEM 174 (January 1, 2012); BEM 400, p 5; RFT 246 (May 1, 2012), p 1. Thus, the Department did not act in accordance with Department policy.

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

for:  AMP  FIP  FAP  MA  SDA  CDC  DSS.

**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

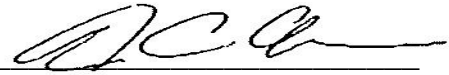
- did act properly.       did not act properly.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC  DSS decision is  AFFIRMED  REVERSED for the reasons stated above and 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. Reinstate Claimant's MA coverage under the DAC and MSP cases as of May 1, 2012;

2. Begin reprocessing Claimant's MA redetermination and eligibility under DAC and MSP as of May 1, 2012, in accordance with Department policy and consistent with this Hearing Decision;
3. Provide MA coverage to Claimant he is eligible to receive from May 1, 2012, ongoing; and
4. 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: 9/24/2012

Date Mailed: 9/24/2012

**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. (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/hw

cc:

