

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

IN THE MATTER OF:



Reg. No.: 2012 72070
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: October 17, 2012
County: Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 17, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. [REDACTED], Attorney, also appeared on behalf of the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES and [REDACTED], ES.

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)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | |

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). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP) | |

2. Due to excess assets, on 9/1/12, the Department

denied Claimant's application. closed Claimant's case.

3. On 8/7/12, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. The Department and the Claimant stipulated that the Claimant's checking account contained \$22, 655 (lowest daily balance) in June 2012.
5. The Claimant is required to reimburse UNUM, a disability benefits insurance provider, for benefits she previously received from UNUM once she received Social Security Disability, but has not resolved with UNUM the amount that is owed to reimburse UNUM for benefits previously paid. The matter regarding the amount owed to UNUM is disputed. (Exhibits 2 and 4)
6. The Claimant's Social Security check is deposited into the checking account and expenses of daily living are taken from the checking account.
7. On 8/28/12, 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 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.

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 AACCS, Rule 400.3151 through Rule 400.3180.

Additionally, at the hearing, the undisputed evidence showed that on the date of the case review and closure, the Claimant had a personal checking account containing \$22,655 (which was the lowest daily balance for June 2012). (Exhibits 1 and 5). The Claimant, through her attorney, asserted at the hearing that the money contained in her personal checking account was reserved to repay disability benefits previously received from ██████ (an insurance provider which provided disability payments to the Claimant). (Exhibit 3). The Department did not dispute that ██████ was owed a sum of money for reimbursement of previously received benefits. (Exhibits 2, 3, and 4). The same checking account was also used by the Claimant for her expenses of daily living, and her Social Security monthly check was also deposited to the account.

The asset limits for the Food Assistance Program (FAP) is \$5,000. The asset limit for the Medicaid program based upon the type of Medicaid Claimant receives is \$3,000. The asset limit for the Medicaid Savings Program, which pays the Medicare Part B premiums, is \$6,940. Department of Human Services Bridges Eligibility Manual, (BEM) 400 (2012). The Department closed all three benefit programs, as it determined that the Claimant's checking account contained funds in excess of the above asset limits.

BEM 400 addresses assets and how to determine whether they must be counted toward the asset limit:

An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400 pp 7.

Clearly, in this case the assets were available, and thus the Department correctly closed the Claimant's case because her assets exceeded the asset limit(s) for the various programs closed. The assets were readily available to the Claimant as evidenced by her withdrawals from the account. Thus, it is determined that the Department correctly applied policy and determined that the Claimant had assets which exceeded the asset limit.

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 FAP.

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 FAP 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:


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/24/2012

Date Mailed: 10/24/2012

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.

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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

LMF/hw

cc:

