

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 75646
Issue No.: 1038, 5026, 5030
Case No.: [REDACTED]
Hearing Date: December 6, 2012
County: Oakland County DHS (04)

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 December 6, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES.

ISSUE

Did the Department properly close the Claimant's Medical Assistance G2S case due to excess assets?

Did the Department properly deny the Claimant's State Emergency Relief application?

Did the Department properly close the Claimant's Food Assistance (FAP) due to failure to verify information?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant applied for SER on or about August 20, 2012. In the application the Claimant sought energy services assistance for electricity. The Claimant listed her monthly income at \$1118. Under assets she indicated her checking after paying monthly expense was only a few dollars and her savings contained \$4000 for smoke damage repairs from her insurance company. Exhibit 2
2. The Department did not verify the checking/savings account information at the time it denied the SER application.

3. The Department issue an SER Decision Notice on August 20, 2012 denying the Claimant's request for non-heat electric utility citing ERM 103 stating your income/asset copayment is equal to or greater than the amount needed to resolve the emergency. No budget or further explanation of the SER application was provided at the hearing. Exhibit 3.
4. The Department also issued a notice of case action dated August 20, 2012 and closed the Claimant's Medical Assistance, G2S, effective September 1, 2012 based on the asset information provided by the Claimant in the SER application. Exhibit 1
5. The Department did not verify the Claimant's assets by issuance of a verification checklist requesting the Claimant's credit union checking and savings statement. Prior to closing her MA G2S.
6. The Claimant was also sent a verification checklist on August 20, 2012 requesting that she verify information regarding her eligibility for Medicare Cost Share and the Food Assistance Program by providing the Claimant's checking account and savings account balance by providing a current statement. The verification was due on August 30, 2012.
7. The claimant provided the information on August 31, 2012 but spoke to her caseworker on August 30, 2012 indicating that the information would be provided on August 31, 2012 and believed based on the conversation that there was no problem submitting the information on that date.
8. On September 6, 2012 the Department closed the Claimant's Medicare savings program and her food assistance program for failure to verify information requested. Exhibit 5
9. The Claimant requested a hearing by hearing request dated August 31, 2012 indicating that she had received 3 notices of case action denying all her benefits.

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 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 2000 AACCS, 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.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

SER Application Denial.

In this case the Department denied the Claimant's SER application for energy electric assistance. The Department did not present a budget at the hearing and could not otherwise explain why the SER application was denied. The SER Notice of Decision cited ERM 103 which covers application procedures and also included the statement your income asset copayment is equal to or greater than the amount needed to resolve the emergency. Based upon the proofs presented at the hearing as well as the testimony of the witness, it is determined that the Department did not sustain its burden of proof to demonstrate that the SER application was properly denied as no budget was provided, nor was policy cited or provided which would give the Department's basis and rationale for the denial.

Medical Assistance Denial

The Department closed the Claimant's ongoing medical assistance GS2 based upon the fact that it determined that the Claimant had excess assets based on the SEIR application information provided by the Claimant. The Department did not request that the Claimant verify the asset information prior to closing the Claimant's case and had no verification based upon bank account savings or checking information at the time it closed the Claimant's case. BAM 130 requires that verification be obtained and indicates that verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. Department of Human Services Bridges Administrative Manual, BAM 130 pp 1, (2012). In this case the Department should have sought verification to determine the lowest monthly balance as required by BEM 400 which provides asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. Department of Human Services Bridges Eligibility Manual (BEM) 400 pp. 4, (2012).

Based upon the proofs presented at the hearing as well as the testimony of the witness, it is determined that the Department did not verify the Claimant's assets and should have done so before it closed the Claimant's Medical Assistance.

FAP and Medicare Savings Program closure for failure to verify information

The Department sent a verification checklist to the Claimant requiring her to provide verification of her checking and savings account information by August 30, 2012. On August 30, 2012 the Claimant called and spoke directly to her caseworker to advise that the information would be provided on August 31, 2012. The Claimant provided the information to the Department on August 31, 2012. The Department closed the Claimant's case for failure to verify information. Exhibit 5. Based upon the fact that the Department was advised that the Claimant was filing the information on August 31, 2012 and did not advise the Claimant that it would close her case if verifications were filed on August 31, 2012 the Department should not have closed the Claimant's FAP case. BAM 130 provides that the Department send a negative action notice when:

The client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, *id*, pp 5 (2012)

Under the facts and testimony provided by the parties and the Claimant's specific credible testimony that she spoke with her caseworker regarding the verification, which testimony indicates that the Claimant was not refusing to verify information and was making a reasonable effort, the Department should not have closed the Claimant's FAP case. It must also be noted that the Department was also unable to locate the Claimant's file and was unable to confirm any information contained in the file.

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 when did not act properly when it denied the Claimant's SER application, and closed her Medical Assistance G2S due to excess assets and when it closed the Claimant's FAP case and Medical Savings Program case for failure to verify information.

Accordingly, the Department's AMP FIP FAP MA SDA CDC SER decision is AFFIRMED REVERSED for the reasons stated on the record and in this Decision.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re register the Claimant's SER application dated August 15, 2012 for energy services assistance and shall determine eligibility for the SER and shall issue a proper decision notice stating the reason for the decision and the correct policy relied upon by the Department in making the decision. The Department may verify information it deems necessary to issue the decision.
2. The Department shall initiate reinstatement of the Claimant's Medical Assistance GP2S case retroactive to September 1, 2012 and shall determine whether the Claimant's assets exceed the asset limit or if any assets are properly excluded in accordance with Department policy. The Department may verify information it deems necessary to determine ongoing eligibility.
3. The Department shall initiate reinstatement of the Claimant's Medicare Savings program case and her Food Assistance case retroactive to the date of closure and shall determine her eligibility for the program. The Department may verify information it deems necessary to make a determination regarding eligibility with regard to the asset verification it sought for bank account checking/savings information.
4. If the Department determines that the Claimant is eligible for benefits, the Department shall supplement the Claimant for any benefits she was otherwise entitled to receive in accordance with Department policy.



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

Date Signed: December 13, 2012
Date Mailed: December 13, 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

LMF/cl

cc:

