

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

IN THE MATTER OF:



Reg. No.: 20133163
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: January 3, 2013
County: Wayne (82)

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 January 3, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's daughter and Authorized Hearing Representative (AHR). Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence Manager, and [REDACTED], 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 September 21, 2012, the Department
 denied Claimant's application closed Claimant's case
due to excess assets.
3. On September 21, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On October 2, 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, Claimant applied for MA on September 12, 2012, seeking retro coverage to July 1, 2012. On September 21, 2012, the Department denied Claimant's application on the basis that Claimant's assets exceeded the asset limit under the MA program.

The asset limit for SSI-related MA for an asset group of one (Claimant) is \$2000. BEM 400 (July 1, 2012), p 5; BEM 211 (November 1, 2012), pp 5-6. For joint savings and bank accounts, the Department counts the entire amount of the money in the account in the calculation of the client's assets unless the client claims and verifies a different ownership, in which case each owner's share is the amount they own. BEM 400, pp 8-9, 12. The Department must verify joint ownership and that the countable amount is less than that presumed by policy at application and when a change is reported. BEM 400, p 43.

In this case, in processing Claimant's September 12, 2012, MA application, the Department requested verification of Claimant's checking accounts and learned that Claimant, in addition to having a checking and savings account in her own name, also had checking and savings accounts she held in joint ownership with her mother, her adult daughter, and each of her four grandchildren. At the hearing, Claimant's daughter testified that the checking account her mother held jointly with her was actually entirely her own, not her mother's. Claimant's AHR explained that the cash assets in the joint account Claimant had with her own mother, [REDACTED], were entirely [REDACTED]s and that the account was held jointly by Claimant because her mother did not speak or write English and Claimant wrote checks for her mother to pay the mother's bills. Claimant's AHR further testified that, after the Department's decision denying Claimant's application, Claimant was removed as joint owner of each of these accounts to more accurately reflect the parties' ownership of the accounts. This credible testimony was sufficient to establish that, although Claimant was listed as joint owner of [REDACTED] and [REDACTED] accounts, she did not own any of the cash assets in those accounts.

Claimant's AHR also explained that Claimant's joint accounts with each of her grandchildren were created by Claimant for the benefit of those children. However, it appears that the grandchildren are all minors. Because Claimant did not establish that these funds were accessible by the grandchildren, the Department could properly

conclude that Claimant was the sole owner of the funds in those accounts in the absence of evidence to the contrary. See BEM 400, p 7.

At the hearing, the Department testified that the information concerning Claimant's joint accounts was provided by the credit union which held the accounts. The Department was required to verify the joint ownership and countable amount of these joint accounts. Because Claimant disclaimed full ownership of the accounts, the Department did not act in accordance with Department policy when it failed to verify ownership of the accounts and used the full value of the accounts to deny Claimant's MA application on the basis of excess assets. The value of the accounts Claimant owned jointly with Maria and with Jillian should have been excluded from the calculation of Claimant's assets.

Furthermore, 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**. BEM 400, p 4. In this case, the Department testified that it considered the current value of the assets rather than the lowest balance for the month being tested. Thus, the Department did not act in accordance with Department policy in calculating Claimant's asset eligibility when it failed to consider the lowest balance of the accounts during the months being considered.

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

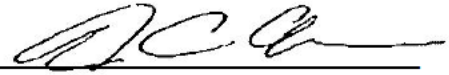
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

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. Reregister Claimant's MA application of September 12, 2012;
2. Begin reprocessing Claimant's MA eligibility as of July 1, 2012 in accordance with Department policy and consistent with this Hearing Decision;
3. Provide MA coverage to Claimant she is eligible to receive from July 1, 2012, ongoing; and

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: January 22, 2013

Date Mailed: January 22, 2013

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:

