

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-36243
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: April 18, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 18, 2013, from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payment Worker, and [REDACTED] Eligibility Specialist.

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"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

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"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | |

2. Due to excess assets, on April 1, 2013, the Department
 denied Claimant's application. closed Claimant's case.
3. On March 12, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On March 18, 2013, 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.

In this case, the Department closed Claimant's FAP case effective April 1, 2013 because the value of Claimant's assets exceeded the FAP asset value limit. Assets must be considered in determining eligibility for FAP. BEM 400 (January 2013), p 1; BEM 213 (October 2011), p 1. Asset eligibility exists when the group's countable assets are less than, or equal to, the FAP asset limit of \$5,000. BEM 400, p 4. Assets include

real property, which consists of land and objects affixed to the land such as buildings, trees and fences. BEM 400, pp 1, 22. However, rental and vacation properties, such as time-share properties, owned by a client are excluded in the calculation of FAP asset eligibility if the client is renting the properties to produce income. BEM 400, p 27.

Additionally, assets are countable if they are available and not excluded. BEM 400, p.1. Available means that someone in the asset group has the legal right to use or dispose of the asset. Joint ownership may affect the availability of assets for FAP purposes. BEM 400, p. 7. Jointly owned assets are assets that have more than one owner. 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. BEM 400, p. 8. The property information presented at the hearing establishes that Claimant and her husband are joint owners, as both of their names appear on the deeds. (Exhibit 2). Because the properties are jointly owned, they also may be considered unavailable assets that are excluded for FAP purposes.

At the hearing, Claimant testified that she owned the properties at issue with her husband, who is not a group member and that they were income producing rental properties. A Court Order from a Wayne County Circuit Court case was presented at the hearing. The Order verifies that the properties at issue are rental properties and orders Claimant to pay her husband all rent and income that is received from the properties. (Exhibit 3). Because under BEM 400, the value of Claimant's rental property should not be included in the calculation of her FAP asset eligibility, the Department did not act in accordance with Department policy when it closed Claimant's FAP case effective April 1, 2013 based on excess assets.

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 FAP 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 FAP MA SDA 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 FAP case as of April 1, 2013 ongoing;
2. Begin recalculating the FAP budget for April 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Begin issuing supplements to Claimant for any FAP benefits that she was eligible to receive but did not from April 1, 2013 ongoing; and
4. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 25, 2013

Date Mailed: April 25, 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.

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

ZB/cl

cc:

