

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-43987
Issue No.: 2018
Case No.: ██████████
Hearing Date: May 29, 2013
County: Wayne (43)

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 May 29, 2013, from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████ Family Independence Manager.

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

2. Due to excess assets, on May 1, 2013, the Department
 denied Claimant's application. closed Claimant's case.
3. On April 18, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On April 25, 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.

In this case, Claimant was an ongoing recipient of Supplemental Security Income (SSI) related MA. The Department testified that on or about April 15, 2013, Claimant received a lump sum lottery payment of \$5,000.00. The Department routinely matches recipient data with other agencies through automated computer data exchanges. The Michigan Bureau of Lottery sends lists of lottery winners from the previous week. In addition, there is a monthly match to allow for any application that was pending during the month that may have become active. BAM 809 (May 2013), p.1. For MA purposes, lump sums and accumulated benefits are income in the month received and may be a countable asset for any subsequent months. BAM 809, p. 1. On April 18, 2013, the Department sent Claimant a Notice of Case Action informing her that her MA case would be closing

effective May 1, 2013 due to excess assets. For SSI related MA, the asset limit for a group size of one is \$2, 000.00. BEM 400 (May 2013), pp.5-6. Claimant verified that she received a lump sum lottery payment of \$5,000.00 on or about April 15, 2013. Therefore, the Department acted in accordance with Department policy when it closed Claimant's MA case effective May 1, 2013 due to excess assets.

At the hearing, Claimant expressed concerns about being informed by the Department that she would be ineligible for MA for five years because she used her lottery winnings to pay off personal debts. Although the Department did not close Claimant's case for this reason and there was no evidence presented to indicate that Claimant would be ineligible to receive MA for a five year period, it should be noted that the divestment policy referenced by the Department at the hearing is not applicable in this case. According to BEM 405, divestment means a transfer of a resource by a client or his spouse that are all of the following: (i) within a specified time; (ii) is a transfer for less than fair market value; and (iii) is not listed under transfers that are not divestment. BEM 405 (May 2013), p. 1. Transfers exclusively for a purpose other than to qualify or remain eligible for MA are not divestment. BEM 405, p.9. Claimant using her lottery winnings to pay off her personal debts does not fall within the definition of divestment for MA purposes and a penalty should not be imposed.

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.



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

Date Signed: June 5, 2013

Date Mailed: June 5, 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]