

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201318949
Issue No.: 2021
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Macomb 20

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 June 5, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and his father, [REDACTED]. Participants on behalf of Department of Human Services (Department) included Medical Case Worker, [REDACTED].

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)? |

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). |

2. On January 1, 2013, the Department denied Claimant's application closed Claimant's case due to his having excess assets to be eligible for MA.

3. On December 3, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On December 14, 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 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 1999 AC, R 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, R 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 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 AACS, R 400.3151 through Rule 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 1999 AC, R 400.5001 through Rule 400.5015.

Bridges Eligibility Manual (BEM) 400 (2012) p. 1, provides that assets, including investments, must be considered in determining eligibility for MA and that countable assets cannot exceed the applicable asset limit. BEM 400, p. 5, sets the asset limit for a group of one at \$ [REDACTED]. In this case, the Department testified that the Claimant had stocks and bonds in excess of \$ [REDACTED]. The Claimant contested this testimony and stated that the asset was a life insurance policy that his father obtained when the Claimant was a mere child. This testimony is supported Department Exhibit 6, which indicates the company name of "Manulife Financial Corporation." The Claimant was asked if the asset was available to him and he was unsure, yet it is his name and not his father's name that is on Department Exhibit 6. BEM 400 p. 7, provides that an asset be available to be countable, which means that the Claimant has the legal right to use or dispose of the asset. Furthermore, BEM 400 p. 8, provides that a jointly owned asset is unavailable if the owner cannot sell his share of the asset without the other owner's consent, the other owner is not in the asset group and that owner refuses consent. The Department presented no evidence regarding whether the asset was available to the Claimant.

BEM 400 p. 31, defines a life insurance policy as a contract between the policy owner and the company that provides the insurance. The company agrees to pay money to a designated beneficiary upon the death of the insured. There is no evidence in this case to establish who the beneficiary of the policy is. Furthermore, even if the Claimant is the designated beneficiary, the Department would then need to determine, per BEM 400 p. 31, what the cash surrender value of the policy is. BEM 400 p. 31, defines cash surrender value as the amount of money the policy owner can get by canceling the policy before it matures or before the insured dies. It is possible that even if the Claimant is the beneficiary that the cash surrender value is below the asset limit of \$2000.00. In this case, the issue of availability and actual value of the asset needs to be further verified.

As it is unclear whether or not the asset is available to the Claimant and if available to the Claimant, whether or not the asset is actually valued in excess of the asset limit, the evidence does not establish that the Department was acting in accordance with its policy when taking action to close the Claimant's case.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department

- improperly denied Claimant's application properly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case for:
 AMP FIP FAP MA SDA CDC.

DECISION AND ORDER

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

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED **REVERSED**.

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

1. Initiate action to re-determine the Claimant's eligibility for MA back to January 1, 2013, and
2. Initiate action to issue the Claimant any supplement he may thereafter be due.

/s/
Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 6/7/13

Date Mailed: 6/7/13

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

SEH/tb

cc:

