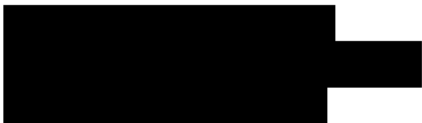


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201343745
Issue No.: 2021, 3008
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUES

- i. Did the Department properly close Claimant's Food Assistance Program (FAP) case due to a failure to comply with the verification requirements?
- ii. Did the Department properly deny Claimant's application for Medical Assistance (MA) due to excess assets?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for MA on or about April 16, 2013 and was active for FAP.
2. On April 5, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503).
3. Claimant was required to submit all requested verification by April 15, 2013.
4. Claimant had a checking account with a balance of \$122.51 and a savings account with \$3,000.00 for a total for both accounts of \$3,122.51.

5. On April 17, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's MA-G2C application due to excess assets and closed Claimant's FAP case due to failure to submit verification in a timely manner.
6. On April 29, 2013, Claimant filed a hearing request, protesting the MA application denial and FAP closure.

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 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 1997 AACRS R 400.3001-3015.

For FAP, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

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.

Assets must be considered in determining eligibility for the following MA categories: LIF, G2U, G2C, SSI-related MA categories and AMP. BEM 400. Assets are defined as cash, any other personal property and real property. BEM 400. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. BEM 400. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles). BEM 400.

For LIF, G2U, G2C and AMP, the Department considers only the following types of assets: (1) cash (which includes savings and checking accounts); (2) investments; (3) retirement plans and (4) trusts. BEM 400.

“Cash” includes the following types of assets: (1) money/currency; (2) uncashed checks, drafts and warrants; (3) checking and draft accounts; (4) savings and share accounts; (5) money market accounts; (6) LTC patient trust fund and all other money held by the facility for the patient (i.e., patient has prepaid in advance for the nursing home stay); (7) money held by others (i.e., Sally does not have a bank account. She puts money in her mother's checking account, but it is not a joint account); (8) time deposits (a time deposit is a contract between a person and a financial institution whereby the person agrees to leave funds on deposit for a specified period in return for a specified interest rate. Common time deposits are certificates of deposit (CDs) and savings certificates. BEM 400.

Countable assets cannot exceed the applicable asset limit. BEM 400. An asset is countable if it meets the availability tests and is **not** excluded. BEM 400. An asset must be available to be countable. BEM 400. “Available” means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400. The Department will consider availability and exclusions to determine if an asset is countable and how much to count. BEM 400.

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories. BEM 400. 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.

For G2U and G2C, the asset limit is \$3,000.

Here, the Department closed Claimant's FAP case due to failure to return verifications and denied Claimant's MA-G2C application due to excess assets. Claimant did not challenge the Department's contentions regarding the assets or failure to return the verifications timely. Claimant did attempt to turn in some bank account statements with her request for hearing, but these were from January 2013 and not current statements as requested by the Department.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly closed Claimant's FAP case due to failure to provide verifications and properly denied Claimant's MA application due to excess assets.

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.

Accordingly, the Department's FAP and MA decisions are **AFFIRMED**.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 29, 2013

Date Mailed: May 29, 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 mailing 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.

CAP/aca

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