

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201347412
Issue No.: 1027, 2021, 3021
Case No.: [REDACTED]
Hearing Date: June 13, 2013
County: Macomb 36

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on June 13, 2013. Claimant and her [REDACTED] appeared and testified.

ISSUE

Did the Department of Human Services properly close Claimant's Family Independence Program (FIP) due to excess assets?

Did the Department of Human Services properly close Claimant's Medical Assistance (MA) due to excess assets?

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) due to excess assets?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
- (2) On November 1, 2012, Claimant won \$ [REDACTED] playing the [REDACTED]
- (3) On January 14, 2013, Claimant won \$ [REDACTED] playing the [REDACTED]

- (4) On March 5, 2013, Claimant was sent a Quick Note (DHS-100) which stated "Provide verification of the [REDACTED] you have received. If you have used/spent any of the winnings received, verification is needed to verify the amounts used or spent. Verification is due by March 15, 2013."
- (5) Claimant submitted a letter, four receipts for electronic items, one receipt for furniture, and a [REDACTED] written by her [REDACTED] before the due date.
- (6) On March 5, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) were closed due to excess assets.
- (7) On May 6, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by 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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Applicable portions of Department of Human Services Bridges Eligibility Manual (BEM) 400 Assets (2013) state:

CASH

FIP, SDA, LIF, G2U, G2C, SSI-Related MA, AMP and FAP

This section is about the following types of assets:

- Money/currency.
- Uncashed checks, drafts and warrants.
- Checking and draft accounts.
- Savings and share accounts.
- Money market accounts.
- LTC patient trust fund and all other money held by the facility for the patient.
- Money held by others. **Example:** Sally does **not** have a bank account. She puts money in her mother's checking account, but it is **not** a joint account.
- 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.

Note: For FAP, use the lowest checking, savings or money market balance in the month when determining asset eligibility.

Lump Sums and Accumulated Benefits

Lump sums and accumulated benefits are defined in the BPG, Glossary.

FIP, SDA AMP and FAP

Lump sums and accumulated benefits are assets starting the month received.

LIF, G2U, G2C, SSI-Related MA

Lump sums and accumulated benefits are income in the month received. See [BEM 500](#) about countable income policy.

Exception: The following are assets:

- Income tax refunds; see Tax Refund & Tax Credit Exclusions in this item.
- Nonrecurring proceeds from the sale of assets.
- Payments that are excluded assets.

VERIFICATION REQUIREMENTS

FIP, SDA, RCA, LIF, G2U, G2C, SSI-Related MA, AMP and FAP

Do **not** require verification when countable assets exceed the limit based on a person's own statement of value.

FIP, SDA, RCA, LIF, G2U, G2C, SSI-Related MA, AMP and FAP

Verify the value of countable assets at application, redetermination and when a change is reported.

Note: For FAP, verify assets at semiannual and mid-certification contacts **only** if a change is reported.

VERIFICATION SOURCES

FIP, SDA, RCA, LIF, G2U, G2C, SSI-Related MA, AMP and FAP

The following prove ownership and/or value of assets. Use the DHS-20, Verification of Assets, the DHS-27, Release of Information, or other specified form as appropriate, when helping a person verify assets. Document information verified by telephone contact in the case or on a DHS-223, Documentation Record.

Other sources of verification are listed by asset type.

Note: For FAP the following are examples of acceptable verification sources and **not** an all-inclusive list.

Checking or Draft Account

- Monthly statement (Examination of checkbook is **not** sufficient.)
- Telephone contact with financial institution.

Direct Express Account

- Statement from Direct Express, the client may have to pay for the statement.

Individual Development Account

- Copy of documents establishing the IDA.
- Statement from the trustee or custodian of the account.

Loan

- Copy of financial institution loan contract.

- Lender's financial statement showing withdrawal of borrowed amount.

Money Held by Other

Written statement from person holding the money.

Savings or Share Account

- Passbook with current entries posted.
- Christmas club coupon book.
- Written statement from financial institution.
- Telephone contact with financial institution.

Savings Certificate

- Written statement from financial institution.
- Certificate itself.

Applicable portions of Department of Human Services Bridges Eligibility Manual (BEM) 500 Income Overview (2013) state:

ASSET EXCLUSION

All TOA

Income manual items identify certain income types that are excluded as assets as well as income. The conditions in [BEM 400](#), Excluded Income under BEM 500 must be met for the asset exclusion to apply.

Funds cannot be counted as both income and as assets in the same month. Do not include funds entered as income in asset amounts entered in Bridges.

LUMP SUMS AND ACCUMULATED BENEFITS

All TOA

Sometimes funds from a particular source are paid in a way that meets the definition of either lump-sum or accumulated benefit; see BPG Glossary for definitions. This section describes special treatment applicable to such payments. Enter lump sum data in the **Lump Sum/Accumulated Benefits** LUW in Bridges.

FIP, RCA, SDA, CDC, AMP and FAP Only

Bridges treats lump-sums and accumulated benefits as assets starting the month received.

Exception: An individual might receive a single payment that includes both accumulated benefits and benefits intended as payment for the payment month. Bridges treats the portion intended for the payment month as income.

MA and TMAP

Lump-sums and accumulated benefits are income in the month received. Income may be countable or excluded. Follow the appropriate policy in items BEM 501, 502, 503 and 504 based on the income type.

Exception: The following are assets starting the month received:

- Income tax refunds.
- Nonrecurring proceeds from the sale of an asset.
- Payments that are excluded assets; see BEM 400, CASH EXCLUSIONS.

It is noted that Claimant did not report the [REDACTED] [REDACTED] to the Department when they occurred. In this case, the Department started from the perspective that Claimant had received the full amount of the [REDACTED] [REDACTED]. Then instead of requiring current verification of typical cash assets listed in policy, they required Claimant to submit verifications to show that she had spent or used the [REDACTED] [REDACTED]. The Quick Note (DHS-100) did not identify what would or would not be acceptable verification and nothing found in Department policy provides guidance. Claimant submitted purchase receipts and a written explanation but the Department determined that only one of the receipts was acceptable and then stopped all her assistance.

Department policy does provide for program ineligibility due to excess assets. Further, the calculation process used by the Department makes sense mathematically. However, nothing in policy provides for, or even hints at, this method of asset verification. Because Department policy dictates a specific process for asset verification, any other process is not in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close Claimant's Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) due to excess assets.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that Claimant's Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) be reinstated and any benefits be supplemented if Claimant was otherwise eligible for them but did not receive them due to this incorrect action.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/17/13

Date Mailed: 6/18/13

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 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

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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

GFH/tb

cc:

