

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201347742
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: June 19, 2013
County: Saginaw

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 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Specialist (FIS) [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 checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input 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 checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. There is no DHS-1605, Notice of Case Action in the hearing packet, however, per the Department's hearing summary, on April 10, 2013, the Department denied Claimant's application closed Claimant's case due to excess assets.

3. There is no DHS-1605, Notice of Case Action in the hearing packet, however, per the Department's hearing summary, on April 10, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On April 29, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case. The request was sent back to the Claimant, informing her that she needed to sign the hearing request. The hearing request was signed and again received in the local office on May 6, 2013.

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 AACRS, 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 Administrative Manual 600 (2013) p. 2, indicates that FAP cases are an exception to the rule that hearing requests must be signed, as those hearing requests can be oral and a notation of such can be made on the hearing summary. The Administrative Law Judge finds it suspect that, all on the same day, the Claimant is notified of the action taken, the action is taken and she is also offered case conference as the hearing summary indicates. It is therefore possible that the delay in the hearing request due to the requirement that the Claimant sign her request may have affected whether her benefits should have been restored pending this hearing. There is no DHS-1605, Notice of Case Action in evidence to properly establish when the negative action was actually taken and therefore the Administrative Law Judge cannot make a conclusion as to whether or not the Claimant's benefits should have been continued pending this hearing.

In this case, the Department maintains that the Claimant owns a home that is not her residence and is therefore in possession of an asset well above the asset limit for FAP. The Claimant maintains that it is no longer her home and not an asset because it is in foreclosure and she has made no payments toward the home for three years at this point. Per the Department's computer case notes in evidence, the Claimant was instructed to obtain documentation to establish that she owed more on the house than what it was worth. The Claimant did submit a letter from [REDACTED] indicating that the house is in foreclosure. The Claimant testified that the bank did have the house up for sale on a short sale, but that in October of 2012, the bank took the house off of the market, changed the locks and she can no longer get in the house.

Bridges Eligibility Manual (BEM) 400 (2013) pp. 1- 4, provides that real property is a countable asset. To be countable, the asset must be available to the Claimant. To be eligible for FAP, countable assets cannot exceed the \$5000.00 asset limit for FAP. It has not been contested that the house at issue exceeds a \$5000.00 value. The issue in this case is whether or not the asset is available to the Claimant. The Claimant testified that the asset was up for sale until such time as the locks were changed and she can no longer get in the house. The Claimant has provided the Department with documentation that the house is in foreclosure status and stated that the bank refused to send her a deed in lieu of foreclosure, which would release the property to the bank.

In this case, it appears that there is a good likelihood that the asset is unavailable to the Claimant. If unavailable, the asset is not countable. Availability of the asset is an eligibility factor in the Claimant's FAP case. Bridges Administrative Manual (BAM) 130 (2012) p. 1 provides that verification is required for asset exclusion to establish the exclusion. BAM 130 pp. 2, 3, provides that the Department tell the Claimant what verification is required, how to obtain it, and the due date using the DHS-3503, Verification Checklist (VCL) to request verification. The Department did not send the Claimant a DHS-3503, Verification Checklist indicating what would be acceptable verification of the asset's unavailability. Therefore, the Administrative Law Judge concludes that the Department was not acting in accordance with departmental policy when taking action to close the Claimant's FAP case for 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 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 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 redetermine the Claimant's eligibility for FAP back the date of the closure of her case, which is to be determined by a DHS-1605, Notice of Case Action informing the Claimant of her case closure for excess assets, and
2. In that process generate a DHS-3503, Verification Checklist expressing to the Claimant what documentation is acceptable as verification of the assets unavailability, and
3. If the Claimant expresses difficulty obtaining such verification, assist the Claimant in obtaining acceptable verification, and
4. Initiate action to issue the Claimant any supplement she may thereafter be due.

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

Date Signed: June 20, 2013

Date Mailed: June 20, 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. (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:

