

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2013-44821
Issue No.: 2021
Case No.: ██████████
Hearing Date: July 9, 2013
County: Gratiot

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Tuesday, July 9, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, and his spouse, ██████████, with authorized representative, ██████████. Participants on behalf of Department of Human Services (Department) included, Cheryl Liberty, LW.

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

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

2. Due to excess assets, on March 18, 2013, the Department denied Claimant's application. closed Claimant's case.

3. On March 18, 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.

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, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (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 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.

Additionally, the Claimant and his wife had four insurance policies that the department determined, combined with other assets, made the Claimant over the asset limit of [REDACTED] for MA at [REDACTED] Department Exhibit 78. The case surrender values were policy [REDACTED], [REDACTED] and policy [REDACTED], [REDACTED] dated November 9, 2012 for Claimant. Department Exhibit 67 and 76. Policy [REDACTED], [REDACTED], and policy [REDACTED], for Rodney Lane, dated November 14, 2012. Department Exhibit

76. All four policies had a cash surrender value of [REDACTED], which was over the [REDACTED] asset limit for MA.

During the hearing, the Claimant's Authorized Representative stated that the Claimant got a loan of [REDACTED] from one of the life insurances, which should make them asset eligible, dated December 19, 2012, for policy [REDACTED], which had a cash surrender value of [REDACTED], with a written note stating that the action taken was performed on November 18, 2012, compared to the [REDACTED], dated November 9, 2012, for Janet Lane. Department Exhibit 70. With the lower cash surrender value, the Claimant had assets valued at [REDACTED]. When added to the additional assets of [REDACTED], the Claimant may be under the [REDACTED] MA asset limit for the month of November 2012.

Loans, BEM 500, page 6

Bridges excludes funds an individual has borrowed provided it is a bona fide loan. This includes a loan by oral agreement if it is made a bona fide loan. Bona fide loan means all of the following are present:

A loan contract or the lender's written statement clearly indicating the borrower's indebtedness;

An acknowledgment from the borrower of the loan obligation;

The borrower's expressed intent to repay the loan by pledging real or personal property or anticipated income;

This exclusion does **not** apply to purchases made with borrowed money or interest earned on borrowed money.

Therefore, the department has not met its burden that it followed policy in determining that the Claimant was excess assets for November 2012. The Claimant was over asset for October 2012, based on the information provided. However, for November 2012, forward, the Department required additional information to determine MA asset eligibility. However, there was no documentation of the loan submitted by the Claimant or his authorized representative. The Department did not have notice of the loan or verification of what was done with the money. The Department should have been tipped off with the decrease in the cash surrender value of the one life insurance policy to ask for additional information. BEM 163, 166,400, 500-505, 530,541, 544, and 545. BAM 105, 110, 115, 130, 220, and 600.

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

- | | |
|---|--|
| <input type="checkbox"/> properly denied Claimant's application | <input checked="" type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input type="checkbox"/> improperly closed Claimant's case |

for: AMP FIP MA SDA FAP.

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 MA SDA FAP decision is AFFIRMED **REVERSED** for the reasons stated on the record.

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

1. Initiate a redetermination of the Claimant's eligibility for MA for November 2012 forward by sending a verification checklist for the Claimant and/or his authorized representative to provide a copy of the loan documentation and written verification of where and for what purpose the loan funds were distributed.
2. Provide the Claimant and his authorized representative with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 07/25/2013

Date Mailed: 07/25/2013

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

CGF/pw

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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