

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201353673
Issue No: 2021, 3021
Case No: [REDACTED]
Hearing Date: July 18, 2013
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 received by the Department of Human Services (department) on June 19, 2013. After due notice, a telephone hearing was held on July 18, 2013. Claimant appeared and provided testimony. Claimant was represented by attorney [REDACTED], P [REDACTED]. The department was represented by [REDACTED], an eligibility specialist with the department's Macomb County office.

ISSUE

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits and Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. In April 2013, Claimant applied for FAP and Adult Medical Program MA benefits for himself. (Department Hearing Summary)
2. On June 7, 2013, the department received verifications from Claimant which indicated, among other things: (i) a checking account balance of \$6,860.12; (ii) a savings account balance of \$182.37; and (iii) a business checking account balance of \$24.20. (Department Exhibits 1-6)
3. On June 10, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that, effective May 1, 2013 and July 1, 2013, respectively, his MA benefits and FAP benefits cases would be closed because his assets exceeded the \$3,000.00 and \$5,000.00

asset limits for the MA Adult Medical Program and FAP programs, under department policy, BEM 400. (Department Exhibits 7, 10)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The FAP program was 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. The MA program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for both programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The department determines a client's eligibility for FAP and MA benefits based on, among other things, the client's assets. BEM 400. The FAP asset limit is \$5,000.00 and the MA asset limit for a group size of two is \$3,000. BEM 400, pp. 4-5.

Department policy defines "assets" to mean cash, any other personal property and real property. BEM 400, p. 1. Real property is land and objects affixed to the land such as buildings, trees and fences. Personal property is any item subject to ownership that is not real property, such as currency, savings accounts and vehicles. BEM 400, p. 1. A life insurance policy is an asset only if it can generate a cash value or a cash surrender value, which is the amount of money the policy owner may obtain by canceling the policy before it matures or before the insured dies. BEM 400, p. 33.

Countable assets cannot exceed the applicable asset limit. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 6. An asset is assumed to be available unless evidence shows it is not available. BEM 400, p. 7.

The value of the types of assets described here is the amount of the: (i) money or currency; (ii) uncashed check, draft or warrant; (iii) money in the account or on deposit; or, (iv) money held by others. BEM 400, p. 14. However, the value of a time deposit

shall be reduced by the amount of any early withdrawal penalty, but not the amount of any taxes due. BEM 400, p. 14.

For purposes of the FAP and SSI-related MA programs, the department must exclude from consideration a client's homestead. BEM 400, p. 26. A homestead is defined as the place in which the client lives and the place is either owned, being bought, or held by the client through a life estate or life lease. BEM 400, p. 25. Moreover, for purposes of the SSI-related MA program, the department must exclude retroactive RSDI and SSA-issued SSI benefits for nine calendar months beginning the month after payment is received. BEM 400, p. 16. This exclusion applies only to any unspent portion of the retroactive payment from RSDI or SSI. Once the money from the retroactive payment has been spent, this exclusion does not apply to the items purchased with the money, even if the nine month period has not expired.

In this case, at the time of Claimant's April 2013 application for FAP and Adult Medical Program MA benefits, Claimant provided the department with, among other things, a checking account statement showing a balance of \$6,860.12; a savings account statement showing a balance of \$182.37; and a business checking account statement showing a balance of \$24.20. Based on this information, the department concluded that Claimant's assets exceeded the \$3,000.00 and \$5,000.00 asset limits for the MA Adult Medical Program and FAP programs, respectively, under department policy, BEM 400.

At the July 18, 2013 hearing, Claimant testified that the funds in his checking account were that which remained from a lump sum RSDI payment that he had received in December 2012 in the amount of \$10,000.00.

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). Moreover, 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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented at the hearing, while Claimant's December 2012 RSDI lump sum payment would have been an excludable asset for purposes of eligibility for an SSI-related MA program, such a payment is not an excludable asset for purposes of the FAP or the AMP programs. Accordingly, this Administrative Law Judge finds that the department acted in accordance with policy by determining that Claimant was not eligible for FAP and MA-AMP benefits because the value of his countable assets exceeds the \$5,000.00 and \$3,000.00 asset limits for these programs.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy by determining that Claimant was ineligible for FAP and MA-AMP benefits because the value of his countable assets exceeds the \$5,000.00 and \$3,000.00 asset limits for these programs. The department's actions in this regard are therefore **UPHELD**.

IT IS SO ORDERED.

/s/_____

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 24, 2013

Date Mailed: July 25, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS 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 this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

