

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

IN THE MATTER OF:

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Reg. No.: 2013-64347
Issue No.: 2021
Case No.: ██████████
Hearing Date: October 10, 2013
County: Macomb #12

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on Thursday, October 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's ██████████. Participants on behalf of the Department of Human Services (Department) included Randy Martin, ES.

ISSUE

Due to excess assets, 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 type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> State Emergency Relief (SER)? |

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 received:
 FIP FAP MA AMP SDA SER
benefits.
2. Due to excess assets, on May 14, 2013, the Department
 denied Claimant's application. closed Claimant's case.

3. On May 14, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On August 12, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, the Claimant was admitted to a long term care facility on February 19, 2013. The Claimant's daughter and Power of Attorney (POA) applied for MA. On

March 28, 2013, the Claimant purchased cashier's checks for [REDACTED], and [REDACTED] and [REDACTED] for a total of [REDACTED] in cashier's checks made out to Sanctuary of Fraser Villa (nursing home). Department Exhibit 2-3. However, the cashier's checks were not paid to the nursing home until April 8, 2013, April 30, 2013, and April 30, 2013, respectively. As a result, the cashier's checks were in the Claimant's possession and control in the month of March 2013.

For the contested time period, the Department Caseworker counted the cashier's checks for the balance of the Claimant's nursing home payment for March 2013 of the [REDACTED] cashier's and found the Claimant to be excess assets of [REDACTED] for the balance of the cashier's checks at the nursing home. However, this Administrative Law Judge notes that even though the nursing home submitted a bill that the cashier's check for [REDACTED] was credited on March 31, 2013, the actual payment was not received by the nursing home until April 8, 2013. Claimant Exhibit f and g. The Department Caseworker contends that the Claimant would still have access to the additional funds at the nursing home because the monies held by the nursing home was counted as cash per BEM 405. In addition, the Claimant is not eligible for MA in the month that they have pre-paid for nursing home care per BEM 405.

Even though, the Claimant's Attorney makes a persuasive argument that the cashier's checks were debited from the Claimant's account and not available. The Claimant's POA had possession of the cashier's checks purchased on March 28, 2013. The POA did not pay the nursing home until April 2013.

This Administrative Law Judge finds that for March 2013 that the Claimant was excess assets when the cashier's check were counted for [REDACTED]. The Claimant's assets were greater than the \$2,000 asset limit for MA. As a result, the cashier's checks should be counted as asset for the Claimant for the month of March 2013, which made the Claimant have excess assets for March 2013. BEM 400 and 405.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

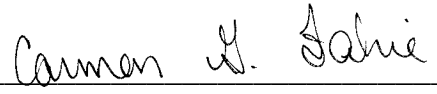
- acted in accordance with Department policy when it determined that the Claimant was not eligible for MA in March 2013.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.**
- REVERSED.**

AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____
to _____.


Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/31/2013

Date Mailed: 10/31/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CGF/ [REDACTED]

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