

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

IN THE MATTER OF:

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

Reg. No.: 2013-68840
Issue No.: 2018;3019
Case No.: ██████████
Hearing Date: October 23, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

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 checked="" 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 September 1, 2013, the Department
 denied Claimant's application. closed Claimant's case.

3. On August 15, 2013 and on August 29, 2013, the Department sent Claimant notice of its decision.
4. On September 1, 2013, Claimant 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 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.

Additionally, assets must be considered in determining eligibility for FAP and MA. BEM 400 (January 2013), p. 4. 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. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For Claimant's MA program, the asset limit is [REDACTED] and for FAP, the asset limit is \$ [REDACTED] BEM 400, pp.5-6.

The Department routinely matches recipient data with other agencies through automated computer data exchanges. The Michigan Bureau of Lottery sends lists of lottery winners from the previous week. In addition, there is a monthly match to allow for any application that was pending during the month that may have become active. BAM 809 (May 2013), p.1. For MA purposes, lump sums and accumulated benefits are income in the month received and may be a countable asset for any subsequent months. BAM 809, p. 1. For FAP purposes, if winnings are \$5,000 or less, the Department is to send a verification checklist request to determine if the client is over the asset level. BAM 809, p.2.

In this case, the Department testified that because Claimant received a lump sum lottery payment of [REDACTED], she was no longer eligible for FAP and MA benefits, as her assets exceeded the limit for both programs. The Department stated that on August 15, 2013, it

sent Claimant a Notice of Case Action informing her of the MA case closure based on excess assets effective September 1, 2013 and on August 29, 2013, it sent Claimant a Notice of Case Action informing her of the FAP case closure based on excess assets effective September 1, 2013. (Exhibits 2 and 3).

At the hearing, Claimant testified in [REDACTED], her husband received a lottery payment of [REDACTED] which he shared with a friend. Claimant stated that although her husband cashed the winnings, he did not keep the entire amount for himself. Claimant testified that her husband and his friend used the winnings towards a vacation and that the money was no longer available in [REDACTED]

The Department did not refute Claimant's testimony that the lump sum was received in the month of [REDACTED] and could not identify when the Department became aware that Claimant had received that lump sum lottery payment. The Department also failed to present any evidence that verification of assets was requested for the months in which the Department believed Claimant was over the asset limit for MA and FAP. BAM 809, pp.1-2.

Additionally, the Department is required to provide clients with timely notice of a case closure. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220 (July 2013), p. 4. In this case, the Department failed to provide Claimant with timely notice of the FAP case closure, as the Notice was sent just two days prior to Claimant's FAP case closure taking effect.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA and FAP cases effective September 1, 2013 based on excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's MA and FAP cases effective [REDACTED];
2. Issue supplements to Claimant for any MA and FAP benefits she was entitled to receive but did not from [REDACTED] ongoing; and

3. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 24, 2013

Date Mailed: October 24, 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

ZB/tm

cc:

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