

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201368678
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: October 22, 2013
County: Gratiot

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 22, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly closed the Claimants Medical Assistance (M.A.), Food Assistance Program (FAP), and State Disability Assistance (SDA) 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. The Claimant was an ongoing Medical Assistance (M.A.), Food Assistance Program (FAP), and State Disability Assistance (SDA) recipient.
2. On July 16, 2013, the Department sent the Claimant a Redetermination (DHS-1010) with a due date of August 2, 2013.
3. On August 7, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of August 19, 2013, requesting verification of a bank account.
4. The Claimant submitted a Verification of Assets (DHS-20) that was not completed by a bank employee.
5. The Claimant submitted a bank transaction receipt that did not identify her as the owner of the bank account.

6. On August 21, 2013, the Department notified the Claimant that it would close her Medical Assistance (M.A.), Food Assistance Program (FAP), and State Disability Assistance (SDA) benefits as of October 1, 2013.
7. The Department received the Claimant's request for a hearing on September 18, 2013, protesting the closure of her Medical Assistance (M.A.), Food Assistance Program (FAP), and State Disability Assistance (SDA) benefits.

CONCLUSIONS OF LAW

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 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, Rule 400.3001 through Rule 400.3015.

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 AACCS, Rule 400.3151 through Rule 400.3180.

Assets means cash, any other personal property and real property. 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. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2013), pp 1-7.

Jointly owned assets are assets that have more than one owner. An asset is unavailable if an owner cannot sell or spend his share of an asset:

- Without another owner's consent, and;
- The other owner is not in the asset group, and;
- The other owner refuses consent. *Id.*

The Department will count the entire amount of a bank account unless the person claims and verifies a different ownership. Then, each owner's share is the amount they own. *Id.*

In this case, the Claimant was an ongoing Medical Assistance (M.A.), Food Assistance Program (FAP), and State Disability Assistance (SDA) recipient. During a routine redetermination of the Claimant's eligibility to receive benefits, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of a bank account. The Claimant submitted a Verification of Assets (DHS-20) that she had completed herself, and a copy of a bank transaction receipt that did not identify the owner of the asset. On August 21, 2013, the Department notified the Claimant that it would close her Medical Assistance (M.A.), Food Assistance Program (FAP), and State Disability Assistance (SDA) for failure to provide the Department with sufficient information necessary to determine her eligibility to receive benefits.

The Claimant argued that she is not the owner of the bank account and that it is not an available asset because she cannot make withdrawals from this account.

If the bank account is not an available asset it would not be considered a countable asset under BEM 400.

However, the Department requires that the Claimant provide verification of the nature of the asset to determine whether it is an available asset. The Claimant failed to establish that she notified the Department that the bank account was not an available asset before her benefits were closed or provide acceptable verification of its value. Therefore, the Department has established that it properly closed her benefits for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

DECISION AND ORDER

The Administrative Law Judge, based on 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 closed the Claimant's Medical Assistance (M.A.), Food Assistance Program (FAP), and State Disability Assistance (SDA) for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

Accordingly, the Department's decision is **AFFIRMED**.

/s/

Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/24/2013

Date Mailed: 10/24/2013

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

KS/sw

cc:

