

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

IN THE MATTER OF:



Reg. No.: 2013-46714
Issue Nos.: 2001, 3021
Case No.: [REDACTED]
Hearing Date: June 10, 2013
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 June 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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

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

2. Due to excess assets, on April 24, 2013, the Department denied Claimant's application. closed Claimant's case.

3. On April 24, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On May 6, 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 Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Bridges Glossary (BPG), and the Department of Human Services 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 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.

Additionally, on April 24, 2013, the Department sent Claimant a Notice of Case Action denying her April 2, 2013, application for FAP and AMP benefits on the basis that her assets exceeded the limit applicable to each program.

Assets must be considered in determining eligibility for FAP and AMP. The FAP asset limit is \$5,000, and the AMP asset limit is \$3,000 (January 2013), p. 4. At the hearing, the Department testified that in determining the value of Claimant's assets, it considered (i) three lump sum payments totaling over \$12,000 made to Claimant in February 2013 by the Social Security Administration (SSA) following her approval for Retirement, Survivors, and Disability Insurance (RSDI) benefits and (ii) Claimant's checking account showing a balance of \$4,453.49 on the statement for the period between February 16, 2013, and March 15, 2013.

The SSA Accumulated Benefits

For AMP and FAP asset eligibility purposes, accumulated benefits, which include "one-time payment of accumulated [non-Department] benefits issued to cover a retroactive period of time or to cover a future period of time" such as RSDI, are assets starting the month received. BEM 400, p. 11; BPG (October 2012), p. 1.

In this case, Claimant's three lump sum payments of RSDI benefits in February 2013 were accumulated benefits. As such, they were assets in the month received. Thus,

the Department did not act in accordance with Department policy when it considered the \$12,000 payment received by Claimant in February 2013 as an asset when assessing her AMP and FAP asset eligibility in connection with her April 2, 2013, application.

Checking Account Balance

The Department also considered Claimant's checking account in determining her asset eligibility. Cash, including bank accounts and savings, are assets. BEM 400, p. 11. The value of a checking account is the amount of the money in the account. BEM 400, p. 12.

In this case, the Department testified that Claimant's checking account statement for February 16, 2013, to March 15, 2013, showed a balance of \$4,453. The statement showed that SSA automatically deposited Claimant's monthly \$900 RSDI income into her checking account. Funds cannot be counted as both income and assets in the same month. BEM 400, p. 15; BEM 500 (January 2013), p. 4. Claimant's gross monthly RSDI benefits are unearned income. BEM 503 (November 2012), p. 21. Thus, the Department did not act in accordance with Department policy when it considered the RSDI \$900 deposit into Claimant's checking account in assessing the value of the account.

Because the Department should not have considered Claimant's RSDI accumulated benefit payments she received in February 2013 in assessing her asset eligibility in connection with her April 2, 2013, application, and should have excluded monthly RSDI deposits in the calculation of the value of Claimant's checking account, the Department did not act in accordance with Department policy when it denied Claimant's April 2, 2013, AMP and FAP application on the basis that she had excess assets.

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 not act in accordance with Department policy when it denied Claimant's AMP and FAP application for excess assets.

Accordingly, the Department's AMP and FAP decision is REVERSED.

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

1. Reregister Claimant's April 2, 2013, FAP and AMP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;

3. Issue supplements to Claimant for any FAP benefits she is eligible to receive, but has not, from April 2, 2013, ongoing;
4. Provide Claimant with AMP coverage she is eligible to receive from April 2, 2013, ongoing; and
5. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 17, 2013

Date Mailed: June 18, 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 affect 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

2013-46714/ACE

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

ACE/pf

cc:

