

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201347835
Issue No.: 2021, 3016
Case No.: [REDACTED]
Hearing Date: June 13, 2013
County: Wayne DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 13, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) benefits due to excess assets.

The second issue is whether DHS properly disqualified Claimant's children due to student status in determining Claimant's Food Assistance Program (FAP) benefit eligibility.

FINDINGS OF FACT

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

1. On 4/2/13, Claimant applied for MA and FAP benefits.
2. Claimant was a member of a four-person household that included two adult children attending college.
3. At the time of application, Claimant was the owner of one vehicle.

4. On 5/1/13, DHS denied Claimant's MA benefit application on the basis of excess assets, by factoring that Claimant was the owner of three vehicles.
5. On an unspecified date, DHS approved Claimant for FAP benefits, in part, based on a group size which excluded Claimant's two adult children who attended college.
6. On 5/15/13, Claimant requested a hearing disputing the MA application denial and FAP benefit group size determination.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute an MA application denial. It was not disputed that DHS denied the application because Claimant had excess assets.

Clients may qualify under more than one MA category. Asset eligibility is required for LIF (low-income family), G2U (Group 2- under 21), G2C (Group 2 Caretaker) and SSI-related MA categories. BEM 400 (5/2013), p. 4. For purposes of this decision, it will be presumed that Claimant was eligible for an MA category requiring an asset determination.

It was not disputed that Claimant reported ownership of one vehicle, a [REDACTED], on her MA benefit application. DHS presented testimony that as of 3/2012, the last time Claimant received DHS benefits prior to her 4/2013 application, Bridges (the DHS database) showed Claimant as the owner of three vehicles ([REDACTED] and [REDACTED]).

DHS contended that Claimant had the burden to prove that she was not the owner of a [REDACTED] and [REDACTED] prior to an MA benefit determination. The DHS contention is improper for two reasons.

First, DHS failed to establish that Claimant was ever sent a request to prove what vehicles that she owned. DHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130 (5/2012), p. 3. The apparent failure by DHS to request verification denied Claimant an opportunity to disprove what DHS determined. A better reason exists for overturning the DHS determination.

The DHS basis for determining that Claimant was the owner of three was improper. The DHS database is a computer system used by DHS staff to determine and issue benefits. It is not an appropriate method to verify vehicle ownership. Acceptable verification for vehicles include:

- title, registration or proof of insurance;
 - loan statement or payment book; or
 - Secretary of State (SOS) inquiry.
- BEM 400 (5/2013), p. 46

It is found that DHS had no appropriate basis to include a [REDACTED] or [REDACTED] in determining Claimant's asset limit. Accordingly, the MA benefit denial is found to be improper.

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a FAP benefit determination. Claimant limited her dispute to a group composition issue, specifically, the failure by DHS to factor her two adult sons, who attended college.

A person enrolled in a post-secondary education program may be in student status. BEM 245 (1/2013), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. *Id.*

A person is in student status if he/she is aged 18 through 49 years and enrolled half-time or more in either:

- a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or
- a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. *Id.*, pp. 2-3.

It was not disputed that Claimant's two sons were full-time college students. It is found that Claimant's two adult sons were in student status. Despite the student status, it is possible that there exists an exception to student status disqualification.

In order for a person in student status to be eligible for FAP benefits, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.

- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. workstudy).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent.

Id. at 3-4.

It was not disputed that Claimant's sons did not meet any of the exceptions for student status. Accordingly, it is found that DHS properly excluded two members from Claimant's FAP benefit determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's group size in the FAP benefit determination. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's MA benefit eligibility. It is ordered that DHS:

- (1) re-register Claimant's application dated 4/2/13;
- (2) initiate processing of Claimant's application subject to the finding that Claimant was the owner of a 2006 Hyundai and no other vehicles; and
- (3) supplement Claimant for any MA benefits improperly not issued.

The actions taken by DHS are PATIALLY REVERSED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/21/2013

Date Mailed: 6/21/2013

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. (60 days for FAP cases)

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

CG/hw

cc:

