

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-64443
Issue No.: 2021; 3021
Case No.: [REDACTED]
Hearing Date: October 17, 2013
County: Jackson

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on [REDACTED], from [REDACTED]. Participants on behalf of Claimant included Claimant and Attorney [REDACTED].

[REDACTED] Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department of Human Services (the department) properly deny Claimant's application for Medical Assistance (MA) and Food Assistance Program benefits based upon its determination that Claimant possessed excess assets?

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. On June 24, 2013, Claimant applied for Food Assistance Program benefits and Medical Assistance Benefits.
2. In the asset section of the application Claimant listed a [REDACTED] at 1 [REDACTED] [REDACTED], stating that she was a [REDACTED] of the [REDACTED].

3. On July 30, 2013, the Department caseworker called Claimant on the phone and asks if Claimant can get a [REDACTED] from the [REDACTED] of the [REDACTED] stating that he would not be willing to [REDACTED] it.
4. The Department of Human Services caseworker contacted [REDACTED] and learned that the [REDACTED] for the [REDACTED] was \$ [REDACTED] making the [REDACTED] \$ [REDACTED]. The [REDACTED] confirmed that the repartee is jointly owned.
5. Because Claimant owns another [REDACTED] in [REDACTED], the property in [REDACTED] Michigan cause the client to fail the asset test limit, which terminated her FAP and MA benefit application.
6. On August 8, 2013 the Department caseworker sent Claimant notice that her application was denied because she failed the asset limit test.
7. On August 15, 2013 Claimant filed a request for hearing to contest the Department's negative action.
8. On August 22, 2013 the Department caseworker sent Claimant a DHS – 3503, verification checklist request in the [REDACTED] statement of not willing to [REDACTED] the [REDACTED].
9. At the hearing the Department representative stated on the record that the caseworker erred when she failed to provide a DHS-3503, verification checklist to the Claimant before denying her application.

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.

Claimant testified on the record that she is the [REDACTED] of the [REDACTED]. However, the person who [REDACTED] at the [REDACTED] is unwilling to provide a letter stating that he will not [REDACTED] the [REDACTED]. In addition, she has no contact with a [REDACTED], the [REDACTED], because he [REDACTED] [REDACTED] in the past.

Pertinent Department policy states:

Assets owned by victims of domestic violence may be unavailable due to domestic violence. These assets do **not** have to be jointly owned but accessing them could put the client in danger. Exempt these assets for a maximum of three months. With FIM approval one three-month extension is permitted. Document in the case record the reasons for the temporary exclusion, and, if any extension is requested, document what steps have been taken to secure the asset. Clients should be advised at the time of the exemption that they are required to report any changes in the status of the asset within 10 days.

Exception: For FAP, there is no time limit for the length of the exemption. BEM, Item 400, page 10.

Additionally, the Department representative conceded on the record that Claimant had not been provided with the appropriate verification checklist documentation before the application was denied.

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 did not act in accordance with Department policy when it denied Claimant's application for Medical Assistance and Food Assistance Program benefits without providing Claimant with a verification checklist so that she could provide information to the Department for eligibility purposes.

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 application for medical assistance and food assistance program benefits.
2. Provide Claimant with a DHS – 3503 verification checklist which lists all appropriate information which Claimant should provide to the Department for purposes of benefit eligibility.

3. Allow Claimant to provide verification information or excuse for failure to provide verification information in accordance with Department policy.
4. Reassess Claimant's eligibility for medical assistance and food assistance program benefits and if Claimant is otherwise eligible open a case for said benefits in accordance Department policy.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/24/13

Date Mailed: 10/25/13

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.

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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

SEH/tb

cc:

