

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2013-68320
Issue No.: 7001
Case No.: ██████████
Hearing Date: December 4, 2013
County: Wayne (82-41)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████
Participants on behalf of the Department of Human Services (Department) included ██████████
██

ISSUE

Did the Department properly process Claimant's application for Direct Support Services (DSS) assistance with a car voucher?

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 April 21, 2013, Claimant applied for DSS assistance to purchase a vehicle.
2. The Department's data exchange with the Secretary of State (SOS) showed that Claimant had a vehicle registered in her name at the time of her application.
3. On May 21, 2013, Claimant wrote a letter to her Department worker explaining that she had sold her vehicle for its junk value because it was not working.
4. On July 5, 2013, the Department sent Claimant a Notice of Case Action approving her DSS application and authorizing \$2,000 in assistance towards her purchase of a vehicle.

5. On September 9, 2013, Claimant filed a request for hearing concerning the Department's failure to process her approved DSS benefits.

CONCLUSIONS OF LAW

Department policies are contained 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).

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

Additionally, DSS are goods and services provided to help families achieve self-sufficiency and include Employment Support Services (ESS) which allows for vehicle purchase. BEM 232 (January 2013), p. 1. The Department may authorize up to \$2,000 to purchase, not lease, a vehicle to be used as a participant's primary means of transportation for work or employment-related activities. BEM 232, p. 13. Vehicle purchase is limited to once in a client's lifetime. BEM 232, p. 13. There is no entitlement to DSS assistance, and the decision to authorize DSS is within the discretion of the Department. BEM 232, p. 1.

In this case, the Department sent Claimant a July 5, 2013, Notice of Case Action approving her April 21, 2013, application for \$2,000 in DSS assistance to purchase a vehicle. The Department did not issue a voucher to Claimant in accordance with the Notice of Case Action. At the hearing, the Department explained that it failed to do so because it discovered in reviewing Claimant's case that she owned another vehicle. As a condition to receipt of DSS benefits to purchase a vehicle, the Department must verify via the SOS records that the client does not own an unusable vehicle. BEM 232, p. 13. In this case, an SOS inquiry showed that a 1992 Pontiac was registered to Claimant.

Claimant credibly testified that she had sold her 1992 Pontiac for scrap metal to a junk dealer. Department policy recognizes that the SOS inquiries may reveal an asset titled to the client which she does not actually own and specifically identifies an auto sold to a junk dealer as an example. BAM 806 (August 2008), pp. 1-2. In such situations, the client may need additional verification. BAM 806, p. 2. The Department must give a client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130 (May 2012), p. 6. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department must use the best available information and, if no evidence is available, its best judgment. BAM 130, p. 3.

In this case, Claimant credibly testified that the Department worker handling her application had asked her to provide a letter detailing her ownership of the Pontiac. The Department's file included a May 21, 2013, letter by Claimant to her Department worker

explaining that she had sold the vehicle to a junk dealer. Therefore, Claimant explained the discrepancy between the SOS inquiry result and her case. Under the circumstances presented, Claimant's letter was the best information available to verify the status of Claimant's 1992 Pontiac.

It is noted that Claimant was led to believe by the Department that her explanation was adequate; she provided her letter on May 21, 2013, and the Notice of Case Action approving her DSS application was sent on July 5, 2013, six weeks later. Even in her September 9, 2013, hearing request, she expressed frustration with the Department's failure to explain why her vehicle voucher had not been issued. It appears that the Department relied on the SOS results to explain its failure to issue the voucher in response to the hearing request even though the Department had that information in May 2013 and nonetheless approved her DSS application on July 5, 2013.

Under the evidence presented in this case, the Department abused its discretion when it failed to issue the car voucher in connection with the July 5, 2013 Notice of Case Action.

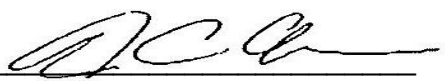
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to issue the car voucher following the July 5, 2013 Notice of Case Action approving Claimant's DSS application.

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. Process the July 5, 2013, Notice of Case Action approving Claimant's DSS application for a vehicle purchase;
2. Issue DSS benefits for a car purchase on Claimant's behalf in accordance with Department policy.


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

Date Signed: December 18, 2013

Date Mailed: December 18, 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

ACE/pf

cc:

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