

3. On August 30, 2013, the Department sent Claimant a Notice of Case Action informing him that FAP and MA benefits were denied based on excess assets. (Exhibit 1, pp. 2-10)
4. On September 19, 2013, Claimant submitted a hearing request disputing the Department's actions.

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (July, 2013), p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

At the hearing, the Department testified and Claimant confirmed that Claimant was not an active and ongoing recipient of FIP benefits and that he had not submitted an application for FIP benefits within the 90 days prior to his filing of a hearing request. Therefore, the Department had not yet determined his eligibility for FIP nor did the Department taken any negative action with respect to Claimant's benefits; therefore, Claimant's hearing request is DISMISSED for lack of jurisdiction. BAM 600, p 4.

Claimant was informed that should he submit an application for FIP benefits and be denied, he was entitled to request a hearing to dispute that action by the Department.

FAP/MA

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.

Additionally, assets must be considered in determining eligibility for FAP and MA. BEM 400 (July 2013), p. 4. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 6. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For Claimant's MA program, the asset limit is \$3,000 and for FAP, the asset limit is \$5,000. BEM 400, pp.5-6.

The Department testified that because Claimant had \$6,500 in a checking account, he was not eligible for FAP and MA benefits, as his assets exceeded the limit for both programs. The Department stated that on August 30, 2013, it sent Claimant a Notice of Case Action informing him of the denial. Claimant did not dispute that he had earnings from unemployment compensation in the bank at the time of the application and stated that he no longer has those assets and has since reapplied for benefits. Claimant testified that he does not dispute the denial of the applications due to excess assets; therefore, the Department acted in accordance with Department policy when it denied Claimant MA and FAP benefits.

At the hearing, Claimant raised additional concerns regarding the August 30, 2013, Notice of Case Action he received. The Notice informed Claimant that two of his children had active and ongoing MA benefits on another case. The Department testified that Claimant's children were receiving benefits on a case with their mother. (Exhibit 1, pp. 14-18). Claimant disputed this and testified that because he has full custody of the children and they live with him full time, he should be considered their primary caretaker for benefit purposes. Claimant stated that he has all of the supporting documentation and has provided it to the Department. Consequently, the Department agreed to initiate an investigation to determine who the primary caretaker of the children is and to take the appropriate administrative actions to resolve the issue.

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 denied Claimant's MA and FAP application based on excess assets.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FIP is DISMISSED and the Department's MA and FAP decision is AFFIRMED.

BASED ON THE DISCUSSION ON THE RECORD AND THE ANALYSIS ABOVE, 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. Initiate an investigation to determine the primary caretaker of Claimant's children and take the appropriate administrative actions to resolve the issue.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 25, 2013

Date Mailed: October 25, 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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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