

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

IN THE MATTER OF:



Reg. No.: 14-006999
Issue No.: 2001; 3001
Case No.: [REDACTED]
Hearing Date: August 14, 2014
County: WAYNE-DISTRICT 82

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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, telephone hearing was held on August 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Due to excess assets, did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) cases?

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 received FAP and MA benefits.
2. Claimant received a lump sum injury award asset of \$11,096.00 in June of 2014.
3. Due to excess assets, the Department closed Claimant's cases, effective on [REDACTED],
4. On [REDACTED], the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.

5. On [REDACTED], Claimant filed a hearing request, protesting the Department's actions.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

FAP

Assets must be considered in determining eligibility for FIP, SDA, RCA, G2U, G2C, RMA, SSI-related MA categories, and FAP.

FIP, SDA, RCA, G2U, G2C, and RMA consider only the following types of assets:

Cash (which includes savings and checking accounts).

Investments(which includes 401(k), Roth IRA etc.).

Retirement Plans.

Trusts. (Emphasis in original.)

BEM 400 (2-1-2014), p. 1

There is a FAP asset test for all FAP groups.

Exception: When all FAP members are receiving FIP and/or SDA and/or SSI, they do not have a FAP asset test because their asset requirements are met by the FIP/SDA/SSI program; see BEM 213 Asset Tests.

BEM 400, p. 3

In the present case, the Department closed Claimant's FAP case due to excess assets. However, the Department did not prove that Claimant was not a recipient of FIP, SDA or SSI, and thus possibly meeting an exception to the FAP asset test. Therefore, the Department failed to prove that it acted in accordance with Department policy when it closed Claimant's FAP case.

MA

Lump sums and accumulated benefits are defined in the BPG, Glossary. ("A one-time payment that is not an accumulation of monthly benefits. Examples: Income tax refunds, inheritances, insurance settlements, injury awards, Medical Loss Ratio Rebates, Keepseagle Track A payments". BPG 1/1/2014, p. 39)

FIP, RCA, SDA, and FAP

Lump sums and accumulated benefits are assets starting the month received.

A person might receive a single payment that includes both accumulated benefits and benefits intended as a payment for the current month. Treat the portion intended for the current month as income.

G2U, G2C, RMA, SSI-Related MA Only

Lump sums and accumulated benefits are income in the month received. See BEM 500 about countable income policy.

BEM 400, p. 14

In the present case, the Department closed Claimant's MA case due to excess assets. However, Claimant received a lump sum injury award payment, which should have been counted as income, not assets (BEM 400). Therefore, the Department did not prove that it closed Claimant's case properly.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP and MA cases due to excess assets.

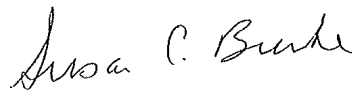
DECISION AND ORDER

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 FAP case if she is found to be eligible for FAP based on all Department policy.
2. Issue FAP supplements for any missed payment.
3. Reinstate Claimant's MA case and related QMB program benefits, if applicable, if Claimant if found to be eligible for the programs, based on all Department policy.



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

Date Signed: **8/26/2014**

Date Mailed: **8/26/2014**

SCB / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

