

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

IN THE MATTER OF:

██████████
████████████████████
██████████

Reg. No.: 14-000840
Issue No.: 2004;3001
Case No.: ██████████
Hearing Date: MAY 14, 2014
County: WAYNE-DISTRICT 76

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 May 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, her daughter, ██████████, and ██████████, Chief of Staff to State Representative ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Manager and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's applications for Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

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 March 20, 2014, Claimant submitted an application for FAP and MA benefits.
2. On March 24, 2014, the Department sent Claimant a Notice of Case Action informing her that her application for FAP benefits had been denied on the basis that the value of her countable assets is higher than allowed for the FAP.(Exhibit 1)
3. The Department did not properly process Claimant's application for MA benefits.
4. On April 2, 2014, 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).

FAP

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.

Additionally, assets must be considered in determining eligibility for FAP. BEM 400 (February 2014), p. 1. 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.8. 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 FAP, the asset limit is \$5,000. BEM 400, pp.5.

In this case, Claimant submitted an application for FAP benefits on March 20, 2014. The Department sent Claimant a Notice of Case Action informing her that she was ineligible for FAP benefits on the basis that the value of her countable assets was higher than the \$5000 FAP asset limit. (Exhibit 1). At the hearing, the Department testified that Claimant's application was denied in error. The Department acknowledged that it did not properly consider the value of Claimant's assets prior to denying the application.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's application for FAP benefits based on excess assets.

MA

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.

When the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum

required information. BAM 115 (July 2013), p. 12. The Department is to certify program approval or denial of the application within 45 days and upon certification of eligibility results, the Department is to notify clients in writing of positive and negative actions by generating the appropriate notice of case action. After processing an initial application, the Department will notify clients of the approval or denial. BAM 115, pp. 13, 18; BAM 220 (July 2013), p. 1.

Additionally, Claimant requested a hearing concerning an application for MA benefits that she submitted to the Department. The Department testified that on March 20, 2014, Claimant submitted an application for MA benefits that was registered and processed. Although the Department testified that the application was denied on the basis that the value of Claimant's assets exceeded the limit for the MA program, the Department failed to present a Notice of Case Action or other documentary evidence in support of its testimony. The Department later acknowledged that a denial on the basis of excess assets was improper.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's application for MA benefits.

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. Register and process Claimant's March 20, 2014, applications for FAP and MA benefits;
2. Issue supplements to Claimant for any FAP and MA benefits that she was entitled to receive but did not from the application date, ongoing; and
3. Notify Claimant of its decision in writing.



Zainab Baydoun

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

Date Signed: **5/20/2014**

Date Mailed: **5/20/2014**

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:

[REDACTED]
[REDACTED]
[REDACTED]
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