

denied Claimant's application. closed Claimant's case.

3. On September 27, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On October 4, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) 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 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 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.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, the Claimant was a recipient of FAP and MA. On August 13, 2013, the Department Caseworker sent the Claimant a Redetermination Application, DHS 1010, that was due on September 3, 2013. Department Exhibit 3-6. The Redetermination Application was received by the Department on September 3, 2013 with no report of assets. Department Exhibit 3-6. During the interview conducted on September 3, 2013, the Claimant disclosed a savings account, which was required to be verified. On September 5, 2013, the Department Caseworker received a fax from the Claimant's financial advisor with subsequent faxes of additional information. Department Exhibit 8-16 and 20-35. The Department Caseworker forwarded the required information to DHS Central Office of Legal Services, Trusts, and Annuities Unit for review.

On September 16, 2013, the Department Caseworker received a memo from the Office of Legal Services, Trusts, and Annuities Unit that stated the Claimant's annuity was from a disability settlement for [REDACTED] on [REDACTED]. The Claimant is eligible for a cash surrender value on the contract because the contract has not been annuitized yet. The Cash Surrender Value is [REDACTED] Department Exhibit 9 and 36. On September 16, 2013, the Department Caseworker sent the Claimant a notice that she had excess assets for FAP and MA with both programs closing on October 1, 2013. Department Exhibit 39-49. BEM 163, 165, 211, 212, and 400. BAM 110, 115, 210, 220, and 803.

BEM 400, ASSETS

Family Independence Program (FIP), State Disability Assistance (SDA), Refugee Cash Assistance (RCA), Low-Income Family MA (LIF), Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), Refugee Medical Assistance (RMA), SSI-Related MA, Adult Medical Program (AMP) and Food Assistance Program (FAP)

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

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

- Cash (which includes savings and checking accounts).
- Investments.
- Retirement Plans.
- Trusts. Page 1.

Assets Defined

Assets mean cash, any other personal property and real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. **Personal property** is any

item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles). Page 1.

FAP Asset Limits

FAP

\$5,000 or less. Page 5.

**G2U, G2C and
RMA Asset Limit**

G2U, G2C and RMA

\$3,000 Page 6,

As a result, the Department properly determined that the Claimant was excess assets for MA and FAP. The Claimant's annuity is a countable asset with a Cash Surrender Value of [REDACTED]. The asset limit for FAP is \$5,000. The asset limit for MA is \$3,000. The Claimant is excess assets for both programs, but she is eligible to reapply once she meets the asset requirements for eligibility.

During the hearing, the Claimant's attorney concurred that the Claimant's asset was a countable asset, but stated that the Department Caseworker should have assisted the Claimant in maintaining her eligibility for benefits. On the record, the Department Caseworker stated that the Claimant did not ask her for any assistance. In addition, Department's policy prohibits Department Caseworkers from giving estate or financial planning advice.

BAM 105, RIGHTS AND RESPONSIBILITIES

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees.

**Informing the
Client**

All Programs

Inform people who inquire about:

- The DHS programs available, including domestic violence comprehensive services.
- Their right to apply.

Provide specific eligibility information on all programs in which they are interested. The DHS-1171, Assistance Application Information Booklet, contains information about programs, services, rights and responsibilities.

The local office is **not** expected to:

- Provide estate planning advice.
- Provide funeral planning advice.
- Determine the effect on eligibility of proposed financial arrangements such as a proposed trust. Page 11.

This Administrative Law Judge finds that the Department properly determined the Claimant's eligibility for benefits. The Claimant was determined to have excess assets, which resulted in the closure of her FAP and MA case. The Department Caseworkers cannot give legal advice of estate planning or financial arrangement effect on eligibility.


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

acted in accordance with Department policy when it closed the Claimant's FAP and MA cases due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.


Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/27/2013

Date Mailed: 12/27/2013

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

CGF/pw

cc: [Redacted]
[Redacted]
[Redacted]
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