

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

IN THE MATTER OF:

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

Reg. No.: 2014-8902
Issue No(s): 2001;3001
Case No.: ██████████
Hearing Date: November 27, 2013
County: Oakland (03)

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 November 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Supervisor.

ISSUE

Due to excess assets, did the Department properly

☐ deny Claimant's application ☒ close Claimant's case for:

☐ Family Independence Program (FIP)?
(AMP)?

☒ Food Assistance Program (FAP)?
(SDA)?

☒ Medical Assistance (MA)?
(SER)?

☐ Adult Medical Assistance

☐ State Disability Assistance

☐ State Emergency Relief

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 ☐ applied for ☒ received:
☐ FIP ☒ FAP ☒ MA ☐ AMP ☐ SDA ☐ SER
benefits.

2. Due to excess assets, on November 1, 2013, the Department
☐ denied Claimant's application. ☒ closed Claimant's case.
3. On October 17, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On October 23, 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 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.

Medicare Savings Programs (MSP) are SSI-related MA categories. Claimant was an ongoing recipient of MA under the Specified Low Income Medicare Beneficiaries (SLMB) category of the MSP. BEM 165 (October 2013), p. 1. SLMB pays Medicare Part B premium. BEM 165, p. 2.

Additionally, assets must be considered in determining eligibility for FAP and MA. BEM 400 (October 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. 9. 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 SSI Related MA program (Group 2 Aged, Blind, Disabled MA), the asset limit is \$2,000. For MSP, for an asset group of one, the asset limit is \$7,080 effective January 1, 2013. BEM 400, p. 7. For FAP, the asset limit is \$5,000. BEM 400, p. 5.

Assets are defined as cash, any other personal property and real property. BEM 400, p.1. Money in checking and savings accounts are counted as cash and applied towards

the FAP, MA and MSP asset limit. BEM 400, p.11. Additionally, the Department is not required to request verification when the countable assets exceed the limit based on a person's own statement of value. BEM 400, p. 56.

In this case, in connection with a redetermination, Claimant's eligibility for FAP, MA and MSP benefits was reviewed. On September 16, 2013, the Department sent Claimant a Redetermination which Claimant completed and submitted on October 1, 2013. (Exhibit 1). On the Redetermination, Claimant indicated that he had [REDACTED] in a savings account and [REDACTED] in a checking account. The Department determined that Claimant's assets exceeded the limit and initiated the closure of his FAP, MA and MSP cases, effective November 1, 2013.

At the hearing, the Department testified that during the Redetermination interview, Claimant stated that he was issued checks from his insurance company in the amount of [REDACTED] and [REDACTED] 1 for damage to his home. Proofs of these checks were submitted with Claimant's Redetermination. Additionally, Claimant informed the Department that he received [REDACTED] in cash from a friend as a loan, by way of a promissory note to be put towards a future investment. Claimant confirmed that these amounts totaled [REDACTED] and that all of the money was deposited in his savings account, where it remained until November 5, 2013, after his cases had already closed. (Exhibit A). Therefore, because the value of Claimant's countable assets exceeded the asset limit for each of the programs; Claimant was ineligible for FAP, MA and MSP effective November 1, 2013.

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 Claimant's FAP, MA and MSP cases based on excess assets. Claimant was informed that he could submit a new application for assistance at any time.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun

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

Date Signed: December 3, 2013

Date Mailed: December 3, 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]