

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017929
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.: [REDACTED]
Hearing Date: February 18, 2015
County: GENESEE-DISTRICT 6

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 18, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED] husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUES

Did the Department properly deny Claimant's Medical Assistance (MA) application based on a failure to comply with verification requirements?

Did the Department properly deny Claimant's Food Assistance Program (FAP) application due to assets in excess of program limits?

Did the Department properly deny Claimant's State Emergency Relief (SER) application based on assets in excess of program limits?

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 September 8, 2014, Claimant applied for FAP, MA, and SER.
2. On September 8, 2014, a Health Care Coverage Supplemental Questionnaire was issued to Claimant with a due date of September 18, 2014.
3. The Department discovered that Claimant owned additional property through a County records website.
4. On September 16, 2014, a Notice of Case Action was issued stating FAP was denied based on assets in excess of program limits.

5. On September 16, 2014, a State Emergency Relief Decision Notice was issued stating the SER was denied based on assets in excess of program limits.
6. On September 19, 2014, a Health Care Coverage Determination Notice was issued indicating MA was denied based on a failure to comply with verification requirements.
7. On September 22, 2014, Claimant returned the Health Care Coverage Supplemental Questionnaire.
8. On December 5, 2014, Claimant filed a request for hearing contesting 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).

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.

A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105, 4-1-2014, p. 6.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if they needs and requests help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. For MA, the Department is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, 7-1-2014, pp. 1-7.

On September 8, 2014, a Health Care Coverage Supplemental Questionnaire was issued to Claimant with a due date of September 18, 2014. On September 19, 2014,

the Department denied the MA portion of the application because the Health Care Coverage Supplemental Questionnaire had not been returned by the due date.

Claimant testified that she did not receive the September 2014 Health Care Coverage Supplemental Questionnaire. Claimant noted that for previous cases with the Department she always returned all packets and requests for information. However, Claimant's testimony that she did not receive the Health Care Coverage Supplemental Questionnaire cannot be found credible. On September 22, 2014, which was after the due date had passed and the MA denial notice was issued, the Department received the completed September 2014 Health Care Coverage Supplemental Questionnaire from Claimant.

The MA denial based upon a failure to comply with verification requirements must be upheld because Claimant did not return the Health Care Coverage Supplemental Questionnaire until after the due date passed and the MA denial notice was issued.

FAP and SER

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 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 Mich Admin Code, R 400.7001 through R 400.7049.

The asset limit for FAP is \$5,000. BEM 400, 7-1-2014, p. 5. To determine the fair market value of real property and mobile homes the Department uses: deed, mortgage, purchase agreement or contract; State Equalized Value (SEV) on current property tax records multiplied by two; statement of real estate agent or financial institution; attorney or court records; or county records. BEM 400, p. 29. One homestead can be excluded for an asset group. BEM 400 p. 31. There is a \$15,000 limit on countable vehicles owned by the FAP group. The Department excludes one vehicle with the highest fair market value per household. The Department adds together the fair market value of all licensed and unlicensed vehicles which are not excluded and subtracts \$15,000 to determine the countable value. If the countable value exceeds \$15,000 the excess is applied towards the \$5,000 asset limit. BEM 400, p. 36.

SER groups with only one member have a \$ [REDACTED] non-cash asset limit. SER groups with two or more members have a \$ [REDACTED] non-cash asset limit. ERM 205, 3-1-2013, p. 1. Examples of non-cash assets are: land contracts; real property; and vehicles. One motor vehicle used as the SER group's primary means of transportation can be excluded as an asset. A homestead can also be excluded. ERM 205 pp. 2-3.

On the application, Claimant reporting living at a property on Chevrolet Ave. The Department verified a value of \$ [REDACTED] for this property. The Department also discovered that Claimant owned additional property on Eldridge through a County records website. The Eldridge property was not listed on the September 8, 2014, application or listed on any of the submitted verifications. The property on Eldridge was valued at \$ [REDACTED] per the tax website. Lastly, the Department showed two vehicles, a 1999 Dodge valued at \$985 and a 1993 GMC valued at \$ [REDACTED]

Claimant testified that there must have been an error with the application because many fields on the submitted copy of the application that are blank Claimant testified she completed, such as her husband's social security number and listing both properties. Regardless of the fields showing as blank instead of completed on the application, the value of all countable assets must be reviewed to determine eligibility. The FAP and SER portions of the application were denied based on assets in excess of program limits.

Claimant and her husband testified that the home on Eldridge was destroyed, there was a break in and invasion, the home cannot be sold or rented, the taxes are past due, and this property is about to go into foreclosure. Claimant indicated she did not provide verification of the lack of value for this property to the Department because she did not know it was being included until this appeal. This conflicts with Claimant's above noted testimony regarding having listed both properties on the application. Ultimately, the Department properly utilized the available information to verify the value of the Eldridge property, county tax records.

In reviewing the budgets, it appears that the Department may have erred in utilizing the \$ [REDACTED] value for the [REDACTED] property in determining assets, instead of excluding the Chevrolet Ave property as a homestead and counting the \$ [REDACTED] value of the Eldridge property. However, just based on the \$ [REDACTED] value of the Eldridge property, Claimant was over the asset limits for both FAP and SER. Therefore, the FAP and SER denials based on assets in excess of program limits must be upheld.

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 portion of the application based on a failure to comply with verification requirements and when it denied the FAP and SER portions of the application based on assets in excess of program limits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/26/2015**

Date Mailed: **2/26/2015**

CL/hj

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 48909-8139

cc:

