

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018230
Issue No.: 2001, 3008
Case No.: [REDACTED]
Hearing Date: February 24, 2015
County: MANISTEE

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 24, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and a witness [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits and determine her Medicaid eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was sent redetermination forms on September 2, 2014.
2. Following redetermination on October 30, 2014, Notice of Case Action was sent to Claimant informing her that her FAP benefits were reduced from \$ [REDACTED] per month to \$ [REDACTED] per month, and she would have Medicaid with an \$ [REDACTED] per month deductible.
3. The [REDACTED] Family Trust was sent to the Department Office of Legal Affairs on November 24, 2014.
4. The Trust/Annuity Evaluation Department found "The trust provides for distributions of income to [REDACTED]. Since there is no condition which the

income could be paid to or on behalf of [REDACTED], the trust income is countable for the purposes of determining her eligibility.”

5. Claimant requested hearing on November 10, 2014, contesting the reduction of FAP benefits and the change in her Medicaid benefits.

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).

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.

Countable Exception B Payments

Count any payment received from the trust by the client as unearned income in the month received. BEM 401

Irrevocable Trust

Count as the person's countable asset the value of the countable assets in the trust principal if there is any condition under which the principal could be paid to or on behalf of the person from an irrevocable trust. Real property (land) left to children in equal shares have no estate tax on the transfer of property,

TRUST PAYMENTS

All Types of Assistance

Count payments from a trust to a beneficiary as the beneficiary's unearned income.

FIP, SDA, CDC, and FAP Only

In addition, count any amount of trust income that the beneficiary can instruct the trust to pay him. It is the beneficiary's unearned income. BEM 503

Count as the person's countable asset the value of the trust's countable income if there is any condition under which the income could be paid to or on behalf of the person. Individuals can keep income made off of property and the money goes to the individual not the trust. Property cannot be taken out of the trust. BEM 401

Additionally, Claimant argued that because the payments were made towards house related expenses, were paid directly to the providers and that she did not have access to the trust principle, therefore the income should not be counted.

With regard to Claimant's FAP benefits, Department policy dictates that payments made from a trust on behalf of a recipient are treated as unearned income. BEM 503 Therefore the Department's treatment of the trust payments as unearned income and subsequent reduction in FAP benefits was proper and correct.

With regard to Claimant's MA eligibility, if there is a condition under which income could be paid to or on behalf of the person then the value of the trust's income is countable. In this case payments are made on behalf of the Claimant towards the home she resides in and for in home care she receives, therefore that income is countable. BEM 401

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 reduced her FAP benefits and determined her MA eligibility.

DECISION AND ORDER

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



Aaron McClintic
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/4/2015**

Date Mailed: **3/4/2015**

AM/jaf

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:

