

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201234131
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: March 15, 2012
County: Oakland DHS (04)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 15, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Specialist.

ISSUE

Due to excess assets, did the Department properly deny the Claimant's application close Claimant's case for:

- | | |
|---|--|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input checked="" type="checkbox"/> Food Assistance Program (FAP)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> State Disability Assistance (SDA)? |

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 benefits received benefits for:

<input type="checkbox"/> Family Independence Program (FIP).	<input checked="" type="checkbox"/> Food Assistance Program (FAP).
<input type="checkbox"/> Medical Assistance (MA).	<input type="checkbox"/> State Disability Assistance (SDA).
2. Due to excess assets, on 2/2/12, the Department denied Claimant's application. closed Claimant's case.
3. On 2/2/12, the Department sent

Claimant notice of the Claimant's Authorized Representative (AR) denial. closure.

4. On 2/10/12, Claimant filed a hearing request, protesting the denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

In the present case, Claimant requested a hearing to dispute a FAP benefit termination of benefits effective 3/2012. DHS terminated Claimant's FAP benefit eligibility after finding that Claimant's bank account balances exceeded the asset limit for FAP benefits.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 at 1. The asset limit for FAP benefits is \$5,000 or less. *Id.* at 4. For all benefits, DHS is to factor cash and bank account balances into the asset determination. *Id.* at 12. For FAP benefits, DHS is to use the lowest checking, savings or money market balance in the month when determining asset eligibility. *Id.* at 13.

The DHS asset determination relied on Claimant's savings and checking account balances as of 1/30/12. Claimant submitted receipts (see Exhibit 1) which verified a savings account balance of \$3588.90 and a second account balance of \$1500.29. The balances add up to \$5089.19, an amount that exceeds the \$5,000 asset limit. DHS based the FAP termination on this information.

DHS did not factor a monthly statement (Exhibit 2) that was submitted by Claimant. The statement verified the \$3588.90 balance as of 1/30/12 but also verified a lowest monthly balance of \$14.16. As DHS is required to apply the lowest monthly balance, DHS erred in the asset calculation by ignoring the requirement. Using the proper lowest balance amount of \$14.16 in combination with the other account balance of \$1500.29 takes Claimant below the asset limit. Thus, the FAP determination was improper by failing to base the asset determination on a lowest monthly balance amount.

DHS also contended that Claimant made other withdrawals from a 401k and that the withdrawals should be counted as income, which would make Claimant ineligible for FAP benefits. The DHS contention does not appear to be supported by DHS regulations, however, no decision need be made concerning the issue. The Notice of Case Action (Exhibit 3) clearly specified a FAP benefit termination based on assets, not income. DHS has not yet considered Claimant's FAP benefit eligibility based on income. Until DHS does so, the issue is not appropriate for administrative hearing consideration. If DHS subsequently finds Claimant to be ineligible for FAP benefits based on income, Claimant is entitled to request a hearing to dispute the matter.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess assets, the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: FAP FIP MA SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's FAP FIP MA SDA decision is
 AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. reinstate Claimant's FAP benefit eligibility effective 3/2012;
2. determine Claimant's ongoing FAP benefit eligibility based on a lowest monthly balance of \$14.16 for the account identified in the records as "S100";
3. supplement Claimant for any benefits not received as a result of the improper FAP benefit termination.



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

Date Signed: March 21, 2012

Date Mailed: March 21, 2012

NOTICE: 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).

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

