

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20128142
Issue No: 3021
Case No: [REDACTED]
Hearing Date:
December 15, 2011
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on December 15, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance Program (FAP) case due to excess assets?

FINDINGS OF FACT

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

1. The Claimant was receiving FAP benefits prior to the date of negative action.
2. The Claimant was sent a Redetermination (DHS 1010) on July 13, 2011, scheduling a redetermination interview for August 5, 2011. (Department Exhibits 2-5).
3. The Claimant missed his redetermination interview and was sent a Notice of Missed Interview on August 5, 2011, informing the Claimant that he was required to reschedule his interview before August 30, 2011. (Department Exhibit 6).

4. After the interview was conducted, the Claimant was sent a Notice of Case Action (DHS 1605) on August 24, 2011 stating that the Claimant would be receiving an allotment of \$200.00 per month in FAP benefits. (Department Exhibits 7-8).
5. On September 20, 2011, the Claimant was sent a Notice of Case Action (DHS 1605) stating that his FAP benefits would be closed as of October 1, 2011 due to the Claimant being over the allowable asset limit.
6. The Claimant filed a request for hearing on October 19, 2011.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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). The Department of Human Services (DHS or Department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In relation to FAP eligibility, Department policy provides that assets must be examined in determining eligibility. For FAP purposes, the group's assets during the benefit month cannot exceed \$5,000.00. BEM 400. Policy defines assets as follows:

Assets Defined

Assets means 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). BEM 400.

In order for an asset to be countable, it must be available. In order for an asset to be available, someone in the asset group must have the legal right to use or dispose of the asset. BEM 400. Assets are presumed to be available unless evidence is provided to show that the asset is not available. BEM 400.

In relation to verification of assets, policy states as follows:

FIP, SDA, RAPC, LIF, G2U, G2C, SSI-Related MA AMP and FAP

Verify the value of countable assets at application, redetermination and when a change is reported. BEM 400.

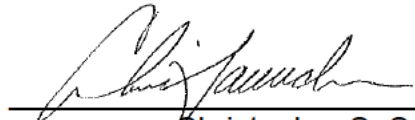
In the case at hand, the Claimant's FAP case was closed because the Department showed that the Claimant had an asset (consisting of stocks and bonds) valued at \$9,084.34 (see Department Exhibit 12). The Department representative testified that the value of this asset came from the statement of the Claimant when it was reported, February 27, 2009, and that said asset had not been verified since that date. As policy states above, assets are to be verified at application, when a change is reported, or at redetermination. In this case, the Claimant completed a redetermination between August 5 and August 24, 2011. However, the Department testified that the asset in question was not verified at that redetermination either by way of written verification or a statement from the Claimant. Policy clearly states that assets are to be verified at redetermination, Therefore, the Department should have verified the asset in question at redetermination. This Administrative Law Judge therefore finds that the Department did not act properly inclosing the Claimant's FAP case. The asset used to place the Claimant over the asset limit was not properly verified and therefore its value was not properly used to disqualify the Claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly determined that the Claimant's assets exceeded the allowable asset limit.

Accordingly, the Department's actions are REVERSED.

It is HEREBY ORDERED that the Department shall allow the Claimant an opportunity to verify his assets and initiate a redetermination of his FAP eligibility. If the Claimant is otherwise eligible, the Department shall reinstate benefits and, if applicable, provide the Claimant with any past due benefits due and owing that the Claimant is otherwise eligible to receive.


Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 12/21/11

Date Mailed: 12/21/11

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

CSS/ hw

cc:



