

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201220920
Issue No: 2021, 3021
Case No: [REDACTED]
Hearing Date: January 19, 2012
Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 Thursday, January 19, 2012. Claimant personally appeared and testified on his behalf.

ISSUE

Was bank account unavailability established?

FINDINGS OF FACT

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

1. On December 27, 2011, The Department of Human Services terminated the claimant's FAP (asset limit of [REDACTED] 0) from [REDACTED] a month to [REDACTED], and proposed termination of MA-P ([REDACTED] 0 limitation) based on excessive assets pursuant to BEM 400.
2. On November 9, 2011, claimant and his guardian had an account at the [REDACTED] with a balance of [REDACTED].
3. On November 9, 2011, the Department of Human Services requested a copy of a trust agreement from the guardian before the policy analyst made their asset determination.
4. The order appointing guardian dated August 23, 1991 states the following restrictions:

- a. The guardian may receive [REDACTED] per month for taking care of [REDACTED] and for household upkeep and [REDACTED] per year for recreational activities and/or equipment for [REDACTED] from the account of [REDACTED] and no other funds maybe withdrawn without an order of the court (Claimant Exhibit 2).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Facts above are undisputed.

Assume an asset is available unless evidence shows it is **not** available. BEM, Item 400, p. 6.

The evidence of record does not state any restrictions on the bank account with [REDACTED] other than there is a guardian that has access to the account on behalf of the claimant.

The court order makes no reference to the [REDACTED] as the account in question.

The claimant has not sustained his burden of proof by the preponderance of the evidence of record to establish that the bank account at [REDACTED] is unavailable.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that bank account unavailability was not established.

Accordingly, MA-P/FAP termination is **UPHELD**.

/s/
William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 6, 2012

Date Mailed: March 7, 2012

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

WAS/tb

cc:

