

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-21247
Issue No.: 2019
Case No.: [REDACTED]
Hearing Date: January 23, 2012
County: Macomb (12)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Monday, January 23, 2012. The Claimant did not appear; however, her authorized hearing representative, [REDACTED] appeared and testified. Participating on behalf of Department of Human Services ("Department") was Erica Johnson.

ISSUE

Due to excess assets, did the Department properly deny the Claimant's application close Claimant's case for food assistance ("FAP") benefits?

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. The Claimant was a FAP recipient.
2. On September 18, 2011, the Department sent a Verification Checklist to the Claimant specifically requesting the completion of a DHS 20 (Verification of Assets) and a current bank statement to be submitted by September 27, 2011. (Exhibit 1, pp. 5, 6)
3. The Verifications were not submitted.

4. On September 27, 2011, the Department sent a Notice of Case Action to the Claimant informing her that her FAP benefits were scheduled for closure on November 1, 2011 based on the failure to submit the required verifications necessary to determine ongoing eligibility. (Exhibit 1, pp. 1 – 4)
5. On October 20, 2011, the Department received the Claimant's timely request for hearing protesting the proposed case action.
6. The Claimant's FAP benefits terminated effective November 1, 2011.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("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. The Department of Human Services, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10 *et seq.*, and the Mich Admin Code, Rules 400.3001 - .3015.

In addition to income, assets must be considered in determining FAP eligibility. BEM 400. Assets are cash and any other personal and/or real property. BEM 400. Countable assets must be available and cannot exceed the applicable asset limit. BEM 400. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400. Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is obtained when required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130.

A negative action includes the reduction in FAP benefits. BAM 220. A hearing request is timely if received anywhere in the Department within 11 days of the effective date of the negative action. BAM 600. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. BAM 600. Upon receipt of the timely hearing request, benefits are reinstated to the former level. BAM 600. For all programs, benefits are not restored if the reduction or termination is due to a mass update required by state or federal law. BAM 600.

In this case, based on a change in policy which now requires verification of assets to determine FAP eligibility, the Department sent a Verification Checklist to the Claimant with a due date of September 27, 2011. The Verifications were not returned and the Department pended the FAP case for closure effective November 1, 2011.

On September 30th, the Claimant contacted the Department reportedly seeking clarification regarding the information being sought. During this same time frame, the Claimant secured employment, of which the Department sought verification of as well. During the September 30th contact, the Department explained that the employment verification and the asset information were needed to determine ongoing eligibility. No information was received and, instead, the Claimant requested a hearing. Despite the timely hearing request, the Claimant's FAP benefits were terminated.

During the hearing, the Claimant's representative conceded that the asset verification was not submitted but noted confusion regarding the specific information being sought. In review of the Verification Checklist, the Department sought a current bank statement and the completion of an asset verification. The request was unambiguous. In consideration of the entire record, it is found that the Claimant failed to provide the requested asset verification which was necessary to determine ongoing eligibility in light of the recent change in policy regarding assets. As discussed on the record, the Claimant's FAP benefits should have continued until the issuance of this decision. This did not happen; however, it is found that the error is harmless, in that the Department established it acted in accordance with policy when it attempted to secure the required verifications and when it pended the FAP benefits for closure based on the Claimant's failure to timely submit the information. Without the required verification, the Claimant was not eligible for FAP benefits.

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's determination to terminate FAP benefits is AFFIRMED.

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 decision is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: January 26, 2012

Date Mailed: January 26, 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.

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

CMM/cl

cc:

[REDACTED]

Macomb County DHS (12)

[REDACTED]

C. Mamelka