

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-4049
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: November 9, 2011
County: Sanilac

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 November 9, 2011 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Claimant were [REDACTED] Support Coordinator from Sanilac CMH and Claimant's husband, [REDACTED] Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist and [REDACTED], Hearings Coordinator.

ISSUE

Did the Department properly close Claimant's case for Food Assistance Program (FAP) benefits due to excess assets?

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 FAP benefits on April 8, 2011 and listed the following assets on her application: savings account ([REDACTED]), certificates of deposit ([REDACTED]) and a checking account ([REDACTED]). (Department Exhibit 9).
2. On September 20, 2011, the Department, per a mass update, mailed Claimant a Notice of Case Action (DHS-1605), which closed Claimant's FAP benefits, effective October 1, 2011, due to excess assets. (Department Exhibits 1 & 2).

3. The Department did not verify Claimant's assets, but determined the Claimant's assets based upon her April, 2011 application.
4. On September 26, 2011, Claimant filed a hearing request, protesting the closure of the case. (Request for Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Effective October 1, 2011, the Department considers assets when determining eligibility for FAP. BEM 400. The FAP asset limit is \$5,000 (five thousand dollars). BEM 400. "Assets" are defined as cash, including any other personal property and real property. BEM 400. "Real property" is land and objects affixed to the land such as buildings, trees and fences. BEM 400. In order to determine whether, and how much of, an asset is countable, the Department must consider both its availability and whether it is excluded. BEM 400. In other words, an asset is countable if it meets the availability tests and is not excluded. BEM 400.

For FAP, the Department determines asset eligibility prospectively using the asset group's assets from the benefit month. BEM 400. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400.

For FAP, the Department's computer system known as Bridges, budgets all countable assets for ineligible and/or disqualified individuals. BEM 400. All assets of non-group members such as ineligible students, furloughed prisoners, etc., will be excluded by Bridges. BEM 400.

The Department will exclude only one homestead for an asset group. BEM 400. A homestead is where a person lives (unless absent from a homestead) that he owns, is

buying or holds through a life estate or life lease. BEM 400. It includes the home, all adjoining land and any other buildings on the land. BEM 400.

For purposes of FAP, employment-related assets such as farmland and the building where a business is located might be excluded. BEM 400. The Department will exclude a lot (including a partially built home) if the owner intends it to become his homestead and has no other homestead. BEM 400. Rental and vacation properties such as time-share properties owned by the group if they are renting it to produce income are excluded. BEM 400.

Personal goods and household goods are excluded. BEM 400. Household goods are defined as items customarily found in the home and used in connection with the maintenance, use and occupancy of the premises. BEM 400. This includes items necessary for an adequate standard of sustenance, accommodation, comfort, information, and entertainment of occupants and guests. BEM 400. Examples are appliances, furniture, television sets, carpets, cooking utensils, eating utensils and dishes. BEM 400. Personal goods are items of personal property that are worn or carried by a person or have intimate relationship to a person. BEM 400. Examples of personal goods are personal clothing and jewelry, personal care items, and educational or recreational items such as books, musical instruments or hobby material. BEM 400.

BEM 400 provides that for FIP, SDA, RAPC, LIF, G2U, G2C, SSI-Related MA and AMP, verification of assets is not required when the countable assets exceed the limit based on a person's own statement of value. For FIP, SDA, RAPC, LIF, G2U, G2C, SSI-Related MA, AMP and FAP, the Department must verify the value of countable assets at application, redetermination and when a change is reported. BEM 400. For FAP, the Department must verify assets at semi-annual and mid-certification contacts, only if a change is reported. BEM 400.

For FIP, SDA, RAPC, LIF, G2U, G2C, SSI-Related MA, AMP and FAP, the Department is required to use the following to prove ownership and/or value of assets: DHS-20 (Verification of Assets) and DHS-27 (Release of Information) or other specified form as appropriate when assisting a person verifies assets. BEM 400. The Department is required to document information verified by telephone contact in the case or on a DHS-223 (Documentation Record). BEM 400.

Here, the Department, through a Bridges mass update notice (DHS-1605) sent on September 20, 2011, concluded that the value of Claimant's countable assets was higher than allowed for FAP. According to the DHS-1605, the Department determined that Claimant was not eligible for FAP and that his FAP case was scheduled to close effective October 1, 2011. The Department's hearing summary indicated the following: "Apparently, (Claimant) intended to provide current asset verification by 9-30-11, but did not." During the hearing in this matter, the Department representatives testified that the Department did not verify Claimant's assets but used Claimant's 2010 application for assistance.

When the Department closed Claimant's FAP benefits due to excess assets without first verifying the assets, the Department violated BEM 400. This policy does not permit the

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

CAP/ds

