

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

**IN THE MATTER OF:**

PHILLIP DEMOTT  
1795 W CLEVELAND RD  
PERRINGTON MI 48871

Reg. No: 201312152  
Issue No: 2009, 3015  
Case No: 116155082  
Hearing Date: December 19, 2012  
Gratiot County DHS

**ADMINISTRATIVE LAW JUDGE:** Suzanne D. Sonneborn

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on November 15, 2012. After due notice, a telephone hearing was held on December 19, 2012. Claimant appeared and provided testimony. The department was represented by Mary Jo Cupples, a lead worker with the department's Gratiot County office.

**ISSUE**

Whether the department properly determined Claimant's Food Assistance Program (FAP) eligibility and Medical Assistance (MA) benefits?

**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 September 27, 2012, Claimant applied for FAP and MA benefits for himself and his wife. (Department Hearing Summary)
2. On October 26, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that he and his wife were not eligible for FAP benefits for the reason that the value of their countable assets exceeded the \$5,000.00 asset limit set forth in the new department policy effective October 1, 2011. The department further advised Claimant that the department is unable to determine Claimant's and Claimant's wife's eligibility for the Adult Medical Program because the program is closed to new enrollments at this time. The department further informed Claimant that he and his wife do not qualify for any other type of Medicaid because they are not aged, blind, or disabled. (Department Exhibits A-G)

3. On November 7, 2012, Claimant submitted a hearing request protesting the department's denial of his application for FAP and MA benefits. (Request for Hearing)

### **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 of that decision. 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), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The department determines a client's eligibility for FAP benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department also determines a client's eligibility for FAP benefits based on, among other things, the client's assets. BEM 400. Assets mean cash (including checking and savings accounts), any other personal property and real property. Effective October 1, 2011, the FAP asset limit is \$5,000.00. BEM 400, p. 4.

Countable assets cannot exceed the applicable asset limit. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 6. An asset is assumed to be available unless evidence shows it is not available. BEM 400, p. 7.

The value of the types of assets described here is the amount of the: (i) money or currency; (ii) uncashed check, draft or warrant; (iii) money in the account or on deposit; or, (iv) money held by others. BEM 400, p. 14. However, the value of a time deposit shall be reduced by the amount of any early withdrawal penalty, but not the amount of any taxes due. BEM 400, p. 14.

In this case, at the time of Claimant's September 27, 2012 application for FAP benefits, Claimant provided the department with, among other things, bank statements indicating that he has a checking and a savings account in his name, each with an available amount of \$5,274.49 and \$308.66, and Claimant's wife has a savings account in her name with an available amount of \$547.53. Based on this information, the department concluded that Claimant's countable assets exceeded the \$5,000.00 asset limit for the FAP program, resulting in the department's October 26, 2012 denial of Claimant's FAP application. The department further concluded that Claimant and Claimant's wife were not eligible for the Adult Medical Program (the only program for which Claimant and his wife would have qualified because at the time of application neither Claimant nor his wife were aged, blind, or disabled) because the AMP is not currently open to new enrollees.

At the December 19, 2012 hearing, Claimant testified that the department should not have relied upon his checking account balance as of the specific date (October 14, 2012) on which the balance was given because the account is his business checking account and the balance fluctuates every day. In response to Claimant's testimony, the department's representative testified that the department must rely upon the balance indicated on the banking statement pursuant to department policy (BEM 400) and that if Claimant were to have submitted a monthly banking statement instead of a snapshot banking statement, the monthly statement most likely would have provided the department with a more accurate assessment of the checking account balance.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented at the hearing, the department acted in accordance with policy determining that Claimant was not eligible for FAP benefits because the value of

his countable assets exceeds the \$5,000.00 asset limit for the FAP program. This Administrative Law Judge further finds that the department acted in accordance with policy in determining that Claimant and his wife were not eligible for AMP benefits because the program is closed to new enrollments at this time.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's eligibility for FAP and AMP benefits and the department's actions in this regard are **UPHELD**.

**IT IS SO ORDERED.**

/s/ \_\_\_\_\_

Suzanne D. Sonneborn  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: December 20, 2012

Date Mailed: December 20, 2012

**NOTICE:** Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of Claimant;
  - The failure of the ALJ to address other relevant issues in the hearing decision

201312152/SDS

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

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

SDS/cr

cc: PHILLIP DEMOTT  
Gratiot County DHS  
N. Scharrer  
M. Holden  
K. Mardyla-Goddard  
M. Best  
S. D. Sonneborn  
MAHS