

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

IN THE MATTER OF:



Rec. No. 2013-25367
Reg. No: 2012-47955
Issue No: 3021
Case No: [REDACTED]
Hearing Date: May 24, 2012
Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

RECONSIDERATION DECISION AND ORDER

This matter is before the undersigned Supervising Administrative Law Judge pursuant to a timely Request for Rehearing/Reconsideration of the Hearing Decision generated by the as signed Administrative Law Judge at the conclusion of the hearing conducted on May 24, 2012.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs at issue, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements upon an Order of Reconsideration issued by the Supervising Administrative Law Judge on January 28, 2013.

ISSUE

The issue set forth in the original Hearing Decision mailed on April 26, 2012, is hereby incorporated by reference of whether the department properly closed the claimant's FAP case due to excess assets?

FINDINGS OF FACT

The Findings of Fact, 1-4 as set forth in the original Hearing Decision mailed on May 30, 2012, are hereby incorporated by reference with the correction of the year from 2011 to 2012 as subsequently listed, with the following added Findings of Fact:

1. Claimant applied for benefits received benefits for:

- Family Independence Program (FIP). Adult Medical Assistance (AMP).
- Medical Assistance (MA). State Disability Assistance (SDA).
- Food Assistance Program (FAP).

2. Due to excess assets, on April 12, 2012, the Department
 denied Claimant's application. closed Claimant's case.
3. On April 12, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On April 18, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.
5. On May 30, 2012, ALJ Fahie issued a Decision and Order in which the ALJ upheld the Department of Human Services (DHS) closure of the Claimant's FAP case due to excess assets.
6. On June 29, 2012, the State of Michigan Administrative Hearing System (MAHS) received the claimant's authorized representative request for a rehearing/reconsideration.
7. On January 28, 2013, MAHS issued an Order Granting Request for Reconsideration.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACSR 400.3001-3015.

BAM 600-HEARINGS, PAGE 33-36

REHEARING/ RECONSIDERATION

All Programs

A **rehearing** is a full hearing which is granted when:

The original hearing record is inadequate for purposes of judicial review;

There is newly discovered evidence **that existed** at the time of the original hearing that could affect the outcome of the original hearing decision.

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ

failed to accurately address all the relevant issues
raised in the hearing request.

Rehearing/ Reconsideration Requests

All Programs

The department, client or authorized hearing representative may file a written request for rehearing/reconsideration. Request a rehearing/reconsideration when one of the following exists:

Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.

Misapplication of manual policy or law in the hearing decision, which led to a wrong conclusion.

Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.

Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the client must specify all reasons for the request.

Local Office Requests

A written request from the local office for a rehearing/reconsideration must be sent to the Division of Family Program Policy (DFPP) in central office or to the Michigan Department of Education/CDC Policy for a recommendation. The written request must include all of the following:

A copy of the decision and order.

A copy of the hearing summary and all evidence presented at the hearing.

Explanation of why a rehearing/reconsideration is appropriate.

Send requests to:

Division of Family Program Policy
Grand Tower Building, Suite 1307
PO Box 30037

Lansing MI 48909

Fax to:
(517) 335-7771

Or email the appropriate policy email box per, BEM 100.

A written request made by the AHR or, if none, by the client, must be faxed to:

(517) 335-6088- Attention: MAHS Client Requested Rehearing/Reconsideration

All Requests

MAHS will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

Department request -- received in MAHS.
Client or authorized hearing representative request -- received at MAHS.

Granting A Rehearing/ Reconsideration

All Programs

MAHS will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties to the original hearing.

MAHS grants a rehearing/reconsideration request if:

The information in the request justifies it; **and**
There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this item.

If the client or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client or authorized hearing representative may waive the timeliness requirement in writing to allow the rehearing/reconsideration.

MAHS will not grant a rehearing involving FAP-IPV.

If MAHS grants a reconsideration, the hearing decision may be modified without another hearing unless there is need for further testimony.

If a rehearing is granted, or if the need for further testimony changes a reconsideration to a rehearing, MAHS will schedule and conduct the hearing in the same manner as the original.

Implementation Pending a Rehearing

All Programs

Pending a rehearing or reconsideration request, implement the original Decision and Order unless a circuit court or other court with jurisdiction issues an order which requires a delay or stay.

If such an order is received by the client, MAHS, the court or the Office of Legal Services, or if there are questions about implementing the order; see Administrative Handbook Manual Legal & FOIA Issues (AHN) item 1100, How to Obtain Legal Services.

BEM 400, ASSETS, PAGE 1 AND 4

FIP, RCA, SDA AND FAP ASSET ELIGIBILITY

FIP, RCA, SDA and FAP

Policy Overview

Determine asset eligibility prospectively using the asset group's assets from the benefit month. 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.

For FAP, Bridges budgets all countable assets for ineligible and/or disqualified individuals. All assets of non-group members such as ineligible students, furloughed prisoners, etc., will be excluded by Bridges.

FAP Asset Limits

FAP

\$5,000 or less.

BEM 400, ASSETS, Page 11.

FAP Non-Salable Assets

FAP

Do **not** count **real property** that the FAP group is making a **good-faith effort** to sell. All of the following must be met for the real property to be excluded:

No reasonable purchase offer has been made.

For active cases, the property is continuously up for sale.

An actual attempt has been made to sell it at a price not higher than the fair market value.

In the instant case, the claimant owned property in Roscommon, Michigan which was an empty lot, had a fair market value of \$ [REDACTED] to \$ [REDACTED]. The FAP asset limit is \$ [REDACTED] per policy implemented in October 1, 2011. During the hearing, the claimant admitted that she only put the property on the market on April 30, 2012, which was after the case closure of her FAP case of April 12, 2012. As a result, the claimant had excess assets on April 12, 2012, which made her ineligible for FAP. The department has met their burden that the claimant has excess assets for FAP eligibility because even though the Claimant stated that the property was up for sale, it was not up for sale before the Claimant's FAP case closed. The claimant is eligible to reapply for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in the closure of Claimant's FAP case, and it is ORDERED that Administrative Law Judge Fahie's decision and order be **AFFIRMED**.

/s/

Carmen G. Fahie
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 6, 2013

Date Mailed: March 6, 2013

NOTICE: The law provides that within 30 days of receipt of the above Reconsideration Decision and Order, the claimant may appeal it to the circuit court for the county in which he/she lives.

CGF/hj

201325367/CGF

cc:

