

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-58710
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: August 15, 2013
Macomb County DHS (20)

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 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, August 15, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly denied the Claimant's Food Assistance ("FAP") application due to excess assets?

FINDINGS OF FACT

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

1. The Claimant submitted an application for public assistance seeking FAP benefits.
2. On May 2, 2013, a hearing was held (2013-39286) regarding Claimant's FAP application, which resulted in a Hearing Decision that ordered the Department to re-determine Claimant's FAP eligibility based on the March 4, 2013 FAP application.

3. In response, on May 16, 2013, the Department sent a Verification Checklist to Claimant, specifically requesting verification of Claimant's annuity to be submitted by May 28, 2013. (Exhibits 1, 2)
4. On May 17, 2013, the Department sent a Quick Note to Claimant again requesting verification of the annuity, as well as a statement that the asset was not available to Claimant. (Exhibit 3)
5. Claimant did not submit any verification between May 16th and May 28, 2013.
6. On June 28, 2013, the Department sent a Notice of Case Action to Claimant, informing him that his March 4th FAP application was denied based on the failure to submit the requested verifications. (Exhibit 4)
7. On July 16, 2013, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The Food Assistance Program ("FAP"), 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 ("CFR"). The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through R 400.3015.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 (January 2013), p. 1. Assets mean cash, any personal property, and real property. BEM 400, p. 1. Countable assets cannot exceed the applicable asset limit. BEM 400, p. 1. For FAP purposes, the FAP asset limit is \$5,000.00 or less. BEM 400, p. 4.

In this case, the Department was ordered, via a Hearing Decision mailed on May 7, 2013, to determine Claimant's FAP eligibility based on Claimant's March 4, 2013 FAP application. In doing so, the Department sent a Verification Checklist and a Quick Note to Claimant, specifically requesting verification of an annuity. The due date for the verification(s) was May 28, 2013. During the period from May 16th through May 28, 2013, Claimant did not submit any verification(s) regarding the annuity. As a result, on June 28, 2013, the Department sent a Notice of Case Action to Claimant, denying the March 4th FAP application.

During the hearing, Claimant asserted that the Department already had the requested verifications, or, in the alternative, should have contacted the City of Detroit's General Retirement System to obtain the requested verifications. At the time of application, the

Department had an Annuity Statement for Fiscal 2011-2012 which showed an accumulated balance as of June 30, 2012 of \$73,685.71. As such, the Department was required to determine whether the funds were available to Claimant. In accordance with policy, the Department sent a Verification Checklist to Claimant. As noted above, Claimant did not submit anything in response. Regarding Claimant's contention that the Department should have contacted the City of Detroit regarding Claimant's annuity; as stated on the record, had the Department contacted the Retirement fund, it would not have been able to get personal information regarding Claimant's annuity. It should be noted, that Claimant submitted a letter from the Retirement System dated June 18th with his hearing request that provides information regarding the availability of funds; however, as stated, this information was not provided to the Department when requested between the dates of May 16th through May 28, 2013.

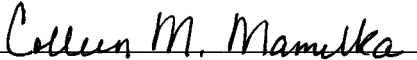
Ultimately, the Department established it acted in accordance with Department policy when it denied Claimant's March 4th FAP application. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department established it acted in accordance with department policy when it denied Claimant's March 4, 2013 FAP application based on the failure to timely submit requested verifications necessary to determine FAP eligibility.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.


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

Date Signed: 8/23/2013

Date Mailed: 8/23/2013

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. (60 days for FAP cases)

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/hw

cc:

