

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

IN THE MATTER OF:

████████████████████
████████████████
████████████████████

Reg. No.: 2014-9093
Issue No(s): 3001
Case No.: ██████████
Hearing Date: November 27, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist and ██████████, Family Independence Manager.

ISSUE

Due to excess assets, did the Department properly
 deny Claimant's application close Claimant's case for:

- | | |
|---|--|
| <input type="checkbox"/> Family Independence Program (FIP)? (AMP)? | <input type="checkbox"/> Adult Medical Assistance |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? (SDA)? | <input type="checkbox"/> State Disability Assistance |
| <input type="checkbox"/> Medical Assistance (MA)? (SER)? | <input type="checkbox"/> State Emergency Relief |

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 received:
 FIP FAP MA AMP SDA SER
benefits.

2. Due to excess assets, on November 1, 2013, the Department denied Claimant's application. closed Claimant's case.
3. On October 15, 2013, the Department sent Claimant Notice of its decision.
4. On October 25, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, assets must be considered in determining eligibility for FAP. BEM 400 (October 2013), p. 1. 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. 9. Asset eligibility exists when the asset 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, p. 3. For FAP, the asset limit is \$5,000. BEM 400, p.5.

The Department routinely matches recipient data with other agencies through automated computer data exchanges. The Michigan Bureau of Lottery sends lists of lottery winners from the previous week. In addition, there is a monthly match to allow for any application that was pending during the month that may have become active. BAM 809 (July 2013), p.1. For FAP purposes, if winnings are over \$5,000, the Department is to take appropriate action and close a case, providing the client with timely notice of the closure. BAM 809, p.2.

In this case, the Department testified that because on September 12, 2013, Claimant received a lump sum lottery payment of ██████████ and on September 27, 2013, Claimant received a second lump sum lottery payment of ██████████, she was no longer eligible for FAP benefits, as her assets exceeded the \$ ██████████ limit for the FAP program. The Department stated that on October 15, 2013, it sent Claimant a Notice of Case Action informing her of the FAP case closure based on excess assets effective November 1, 2013. (Exhibits 1 and 2).

At the hearing, Claimant confirmed that she received both lottery payments in the above amounts on those dates. Claimant stated that the earnings remained in her account until October 2013, when they were spent.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that because the lottery earnings received by Claimant were over \$5,000, the Department acted in accordance with Department policy when it closed Claimant's FAP case effective November 1, 2013, and provided her with timely notice.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 3, 2013

Date Mailed: December 3, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing 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 claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-9093/ZB

If submitted by mail, the written request must be addressed as follows:

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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]