

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

IN THE MATTER OF:

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

Reg. No.: 2014-20330
Issue No(s): 3001
Case No.: ██████████
Hearing Date: January 29, 2014
County: Wayne (17)

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 January 29, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist.

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)?
Relief (SER)? | <input type="checkbox"/> State Emergency |

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 December 4, 2013, the Department denied Claimant's application. closed Claimant's case.
3. On December 12, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On December 19, 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 (December 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.

Assets are defined as cash, any other personal property and real property. BEM 400, p.1. Money in checking, savings, and money market accounts are counted as cash and applied towards the FAP asset limit. BEM 400, p.14. For FAP cases, the Department is to use the lowest balance in the month when determining asset eligibility. BEM 400, p. 14.

In this case, Claimant submitted an application for FAP benefits on December 4, 2013. The Department testified that Claimant's application was denied on the basis that the value of Claimant's countable assets was \$██████████, which exceeded the \$5000 limit for FAP purposes. (Exhibits 2 and 4). The Department stated that in calculating the value of Claimant's assets, it considered a bank statement for the period July 2013 to August 2013, with a balance of ██████████ from Wings Financial submitted by Claimant on September 5, 2013 in connection with a previous FAP application that was denied. (Exhibit 1).

At the hearing, Claimant testified that the money in the Wings Financial account was a loan and that it was spent in the months of August 2013 and September 2013. Claimant stated that when the December 4, 2013, FAP application was submitted, that money was no longer available and that it was no longer in the account.

According to BAM 130, before determining eligibility for all programs, the Department is to give clients a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130 (July 2013), p. 6. Further, the Department will request verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3.

A review of the application submitted on December 4, 2013, indicates that Claimant did not list Wings Financial in the liquid assets section. (Exhibit 3). If the Department believed that the funds in the Wings Financial account were still available to Claimant, the Department should have allowed Claimant to resolve the discrepancy between the information Claimant provided on the application and the information that the Department had on file from the previous application. Further, because the Department is to use the lowest balance in the month when determining asset eligibility, the Department did not act in accordance with Department policy when it did not request that Claimant verify the value of her assets for December 2013, and instead relied on a statement for the July 2013 to August 2013 period. BEM 400, p. 14.

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 the Department did not act in accordance with Department policy when it denied Claimant's FAP application based on excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Register and process Claimant's December 4, 2013, FAP application;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from the application date, ongoing; and

3. Notify Claimant in writing of its decision.



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

Date Signed: February 3, 2014

Date Mailed: February 4, 2014

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

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]