

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

**IN THE MATTER OF:**



Reg. No.: 2014-21842  
Issue No.: 3001  
Case No.:   
Hearing Date: February 6, 2014  
County: Macomb 20

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**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 February 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included . Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist (ES), .

**ISSUE**

Did the Department properly  close Claimant's case for:

- |  |   |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)?        | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)?  |
| <input type="checkbox"/> Medical Assistance (MA)?                  | <input type="checkbox"/> Direct Support Services (DSS)?     |
| <input type="checkbox"/> Adult Medical Assistance (AMP)?           | <input type="checkbox"/> State SSI Payments (SSP)?          |

**FINDINGS OF FACT**

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

1. Claimant  received:  FAP benefits.
2. On February 1, 2014, the Department  closed Claimant's case due to excess assets.
3. On December 30, 2013, the Department sent Claimant its decision.
4. On January 9, 2014, Claimant filed a hearing request, protesting the Department's actions.

## CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Bridges Eligibility Manual (BEM) 400 (2013) p. 5, sets the asset limit for eligibility for FAP at \$ [REDACTED]. In this case, the Claimant reported that she had \$4,232.93 in a checking account. She also reported that she had an annuity with \$ [REDACTED] in it. The Department's worker determined that the Claimant had \$ [REDACTED] in assets. The Department's worker therefore denied Claimant's application for FAP due to excess assets.

The Claimant testified that not all of the \$ [REDACTED] was available to her. The Claimant's checking account was valued at \$ [REDACTED] which is less than the asset limit for FAP. The Claimant testified that she could only withdraw money from this annuity twice in the year with a maximum withdrawal of \$ [REDACTED] each time. BEM 400 p. 9, provides that 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. 24, the finds and an annuity as a retirement plan and further provides that for FAP, all retirement accounts are excluded. As such, when the Department determined that the Claimant had excess assets to be eligible for, the Department was not acting in accordance with its policy as it was counting the Claimant's retirement plan of an annuity.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department  did not act in accordance with Department policy when it took action to close the Claimant's FAP case.

### **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. Re-determine the Claimant's eligibility for FAP back to February 1, 2014, and
2. Issue the Claimant any supplement that she may thereafter be due.



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Susanne E. Harris  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 2/11/14

Date Mailed: 2/12/14

**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

SEH/tb

cc:

