

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201428559
Issue No: 3001
Case No: [REDACTED]
Hearing Date: May 19, 2014
DHS SSPC-West

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on February 20, 2014. After due notice, a telephone hearing was held on March 19, 2014 from Lansing, Michigan. Claimant appeared by three-way conference call and provided testimony. The department was represented by [REDACTED] [REDACTED] an assistance payments specialist with the department's Self Service Processing Center West office.

ISSUE

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On February 3, 2014, Claimant applied for FAP benefits for herself.
2. During Claimant's February 7, 2014 interview with a department case specialist, Claimant reported liquid countable assets totaling \$ [REDACTED] (Department Exhibits 1-6)
3. On February 11, 2014, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that, effective February 3, 2014, her FAP benefits application was denied because her assets exceeded \$5,000 asset limit for FAP program under department policy, BEM 400. (Department Exhibit 7)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The FAP program was 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. The MA program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for both programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The department determines a client's eligibility for FAP benefits based on, among other things, the client's assets. BEM 400. The FAP asset limit is \$5,000.00. BEM 400, pp. 4-5.

Department policy defines "assets" to mean cash, any other personal property and real property. BEM 400, p. 1. Real property is land and objects affixed to the land such as buildings, trees and fences. Personal property is any item subject to ownership that is not real property, such as currency, savings accounts and vehicles. BEM 400, p. 1. A life insurance policy is an asset only if it can generate a cash value or a cash surrender value, which is the amount of money the policy owner may obtain by canceling the policy before it matures or before the insured dies. BEM 400, p. 33.

Countable assets cannot exceed the applicable asset limit. 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. 6. An asset is assumed to be available unless evidence shows it is not available. BEM 400, p. 7.

The value of the types of assets described here is the amount of the: (i) money or currency; (ii) uncashed check, draft or warrant; (iii) money in the account or on deposit; or, (iv) money held by others. BEM 400, p. 14. However, the value of a time deposit shall be reduced by the amount of any early withdrawal penalty, but not the amount of any taxes due. BEM 400, p. 14.

In this case, at the time of Claimant's February 3, 2014 application for FAP benefits, Claimant provided the department with verification of three savings accounts in the amounts of \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED] respectively; a savings bond in the amount of \$ [REDACTED] two checking accounts in the amounts of \$ [REDACTED] and \$ [REDACTED]

respectively, and stocks, bonds, or mutual funds totaling \$ [REDACTED]. Based on this information, the department concluded that Claimant's countable assets, which totaled \$ [REDACTED] exceeded the \$ [REDACTED] asset limit for the FAP program, resulting in the department's February 11, 2014 denial of Claimant's FAP application.

At the March 19, 2014 hearing, Claimant did not disagree that her countable assets exceeded the \$ [REDACTED] limit for the FAP program.

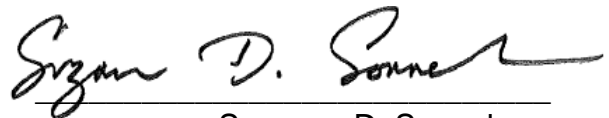
Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented at the hearing, the department acted in accordance with policy determining that Claimant was not eligible for FAP benefits because the value of her countable assets exceeds the \$ [REDACTED] asset limit for the FAP program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's eligibility for FAP benefits and the department's actions in this regard are **UPHELD**.

IT IS SO ORDERED.



Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 19, 2014

Date Mailed: March 20, 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

SDS/hj

cc:

