

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

IN THE MATTER OF:



Reg. No.: 14-003508
Issue No.: 3001
Case No.:
Hearing Date: July 2, 2014
County: St Clair County DHS

ADMINISTRATIVE LAW JUDGE: Gary F Heisler

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 July 2, 2014, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Human Services (Department) included AP Supervisor

ISSUE

Did the Department properly close Claimant's Food Assistance Program case beginning June 1, 2014 due to excess assets?

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 was an ongoing recipient of Food Assistance Program benefits.
2. On May 12, 2014, Claimant was sent a Notice of Case Action (DHS-1605) which stated his Food Assistance Program benefits would end June 1, 2014.
3. On May 22, 2014, Claimant 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

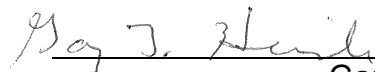
The asset in dispute is an annuity contract in Claimant's wife's name. The contract has a cash value of \$ [REDACTED]. During this hearing Claimant testified that money can be withdrawn from the account but they would lose a lot because the withdrawal would be subject to early withdrawal penalties.

Bridges Eligibility Manual (BEM) 400 Assets (2014) at page 8 states that an asset must be available to be countable. At this time, the \$ [REDACTED] cash value of the annuity contract is still available to Mrs. Micale. Therefore, Claimant's Food Assistance Program group has assets of at least \$ [REDACTED]. The Food Assistance Program asset limit is \$ [REDACTED].

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 acted in accordance with Department policy when it closed Claimant's Food Assistance Program case beginning June 1, 2014 due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **7/8/2014**

Date Mailed: **7/8/2014**

GFH / hj

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of

this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

