

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

**IN THE MATTER OF:**

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████████████████████

Reg. No.: 14-009248  
Issue No.: 3001  
Case No.: ██████████  
Hearing Date: October 01, 2014  
County: Wayne (35-Redford)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 October 1, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████  
██████████

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on excess assets?

**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 was an ongoing recipient of FAP benefits.
2. On May 31, 2014, in connection with a redetermination, the Department sent Claimant a Verification Checklist (VCL) requesting, among other things, verification of the value of his stocks, bonds and mutual funds by June 10, 2014.
3. On June 3, 2014, the Department sent Claimant a Notice of Case Action advising him that his FAP case would close effective June 1, 2014, because he had failed to verify his bank savings and checking accounts and his stock and because the value of his countable assets exceeded the applicable FAP asset limit amount.

4. On June 6, 2014, Claimant submitted verifications showing the value of funds in his checking and savings accounts and his stocks.
5. On August 8, 2014, Claimant filed a request for hearing disputing the Department's actions concerning his FAP case.

### **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), 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.

As a preliminary matter, it is noted that the Department sent Claimant the June 3, 2014, Notice of Case Action closing his FAP case before the June 10, 2014, due date for the VCL requesting verification of Claimant's assets. The June 3, 2014, Notice of Case Action closing Claimant's FAP case explained that the case was closing because Claimant had failed to provide requested verifications and because the value of his assets exceeded the applicable FAP asset limit amount. At the hearing, the Department acknowledged that Claimant submitted all requested verifications and testified that Claimant's case closed because of excess assets.

To be eligible for FAP, a client must establish that the value of his assets does not exceed the \$5,000 FAP asset limit. BEM 400 (February 2014), p. 5. Savings and checking accounts, stocks and bonds are assets for FAP purposes. BEM 400, pp. 14-15, 22. Retirement plans, including 401(k) plans, are excluded assets for FAP purposes. BEM 400, p. 24.

In this case, the Department testified that it concluded that the value of Claimant's assets totaled \$6,386.32, based on (i) the sum of stocks, bonds or mutual funds valued at \$3,488.59; (ii) a savings account valued at \$5.82; (iii) a savings account valued at \$1,936.16; and (iv) a checking account valued at \$1,048.27. It is noted that the sum of the value of these identified assets is slightly more than the amount stated by the Department.

The value of a checking or savings account or money market account is the value of the money in the account. BEM 400, p. 15. When determining FAP asset eligibility, the

Department uses the *lowest* checking, savings or money market balance in the month. BEM 400, p. 14 (emphasis added).

In this case, Claimant has [REDACTED] account identified as an “insured deposit account.” The statement presented by Claimant showed that this account, whether treated as a savings account or a money market account, had a value at the time at issue of \$1,936.13. [REDACTED] savings statement presented by Claimant established that the value of that account at the time at issue was \$5.82. Therefore, the Department considered the correct value for those accounts in calculating the value of Claimant’s assets.

For the value of Claimant’s [REDACTED] [REDACTED] [REDACTED] checking account, the Department used \$1,048.27, the value of the account as of June 6, 2014, the date the Department testified Claimant turned in his response to the VCL. However, the online statement presented by the Department had transactions through June 12, 2014, showing the lowest balance for the period from May 1, 2014, to June 12, 2014, of \$606.70. Because the Department improperly sent out the Notice of Case Action closing Claimant’s FAP case on June 3, 2014, before the June 10, 2014, due date for the VCL, and did not send out a new Notice closing Claimant’s FAP case based on excess assets, the Department did not act in accordance with Department policy when it relied on the value of the [REDACTED] checking account on June 6, 2014, rather than the lower value showing on the account on June 12, 2014.

The Department concluded that the value of Claimant’s stocks and bonds was \$3,488.59. The value of stocks is the closing price for publicly traded stocks, the bid price or net asset value (NAV) for mutual funds, and the bid price for bonds. BEM 400, p. 23. Claimant presented verification of ownership of [REDACTED] [REDACTED] Claimant’s self-reported value of these assets totaled \$3,488.80. However, Department policy requires that the value of stocks and bonds is verified by a written statement from the broker or company or listing in a current newspaper. BEM 400, p. 59. The documentation included with Claimant’s statement does not verify current value of the assets. Therefore, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it concluded that the value of these assets totaled \$3,488.59.


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant’s FAP case for 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. Recalculate the value of Claimant's [REDACTED] checking account and his [REDACTED] accounts at the time of redetermination;
2. Reinstate Claimant's FAP case effective June 1, 2014, if he is asset-eligible for FAP benefits;
3. Issue supplements to Claimant for any FAP benefits he is eligible to receive from June 1, 2014, ongoing; and
4. Notify Claimant in writing of its decision in a DHS-1605, Notice of Case Action.

  
**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **10/6/2014**

Date Mailed: **10/6/2014**

ACE / pf

**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:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]