

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

**IN THE MATTER OF:**



Reg. No.: 14-012864  
Issue No.: 3001, 2001  
Case No.: [REDACTED]  
Hearing Date: October 30, 2014  
County: WAYNE-55 (HAMTRAMCK)

**ADMINISTRATIVE LAW JUDGE: Lynn Ferris**

**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, telephone hearing was held on October 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

**ISSUE**

Due to excess assets, did the Department properly deny Claimant's application and close Claimant's case for Food Assistance Program (FAP) and Medical Assistance (MA)?

**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. The Claimant applied for food assistance and medical assistance sometime after May 19, 2014, and was denied due to excess assets. Exhibit 3 and 4
2. Prior to May 19, 2014, the Claimant was an ongoing recipient of both food assistance and medical assistance.
3. On May 19 2014, the Department closed the Claimant's food assistance case due to excess assets. Exhibit 2
4. On September 4, 2014, the Department denied the Claimant's application for medical assistance and food assistance due to excess assets.

5. The Department did not verify the Claimant's assets when it denied the application for medical assistance and food assistance for excess assets.
6. The Department was notified on May 9, 2014 that the Claimant had received lottery winnings in the amount of \$ [REDACTED]. Exhibit 1
7. On September 18, 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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The issue in this case is whether the Department properly denied the Claimant's application for food assistance and medical assistance based upon excess assets. The Department was notified on May 9, 2014 by lottery match that the Claimant had received lottery winnings in the amount of [REDACTED]. Pursuant to a notice received, the Department closed Claimant's medical and food assistance case due to excess assets. The Department took this action on May 19, 2014 by notice of case action. As regards the Department's actions taken on May 19 2014, the Claimant's hearing request received by the Department on September 18, 2014 is untimely, as it was not submitted within 90 days of the Departments notice of case action as required by BAM 600. (7/1/14)

With respect to its subsequent denial of the Claimant's applications for food assistance and medical assistance issued by Notice of Case Action dated September 4, 2014, the Claimant's hearing request is timely.

At the hearing, the Claimant credibly testified that the lottery winnings were not his and that he cashed a lottery ticket on behalf of another person who was the husband of his niece. That individual's name was given as [REDACTED]. Additionally, BAM 809 requires that the Department take appropriate action upon receipt of a lottery match based upon the gross winnings. If the winning shown are over \$5000, the Department is to take appropriate action to close the case, and the Department must give the Claimant timely notice. BAM 809 (7/1/14) pp.1-3. This is what the Department did with regard to the closure of Claimant's food assistance and medical assistance.

At the hearing, the Claimant did not provide any bank account information which supported his testimony. The Claimant merely testified that he had indeed cashed the winning lottery ticket for another person and placed the money in his bank account. The money remained in his bank account for five days and he testified that [REDACTED] removed the money thereafter from his account. The Claimant also acknowledged that he received [REDACTED] from [REDACTED] for cashing the lottery ticket. Unfortunately, although this testimony was credible, no bank account information supporting the testimony was provided.

Both the food assistance and medical assistance programs have asset limits. The asset limit for food assistance is \$5000 and for the medical assistance program is \$2000 for a group of one individual. **Assets** mean cash, any other personal property and real property. **Real property** is land and objects affixed to the land such as build-ings, trees and fences. Condominiums are real property. **Personal property** is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles). BEM 400, p.1

During the hearing, the Department was asked whether the Claimant was sent a verification checklist regarding the status of his assets at the time of the applications. The Department was unable to produce any such verification. It was unclear from the record and evidence provided whether the Department interviewed the Claimant with respect to his applications for food assistance and medical assistance.

An interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. Do **not** deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application date **even** if he/she has returned all verifications; see **Scheduling Interviews** for FAP only in this item. BAM 115, (7/1/14), pp.17,

For **FAP only** schedule the interview as a telephone appointment **unless** specific policy directs otherwise. The interview must be held by the **20th** day after the application date to allow the client at least 10 days to provide verifications by the 30th day. pp. 22

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

Verification is **not** required:

- When the client is clearly ineligible, or
- For excluded income and assets **unless** needed to establish the exclusion. Pp.1 BAM 130 (7/1/14)
- Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. Pp.8

The Department is entitled to rely on current documents when verifying information. Current documents are defined as:

- **Other nonpermanent** documents are generally considered current if dated within 60 days before your eligibility determination. Older documents may be used if available information indicates the document remains current and there have been no changes in circumstances.

The Department determined Claimant's eligibility on September 4, 2014 based upon a May 9, 2014 document indicating lottery match, a document that is more than 60 days prior to the eligibility determination. Under these circumstances, and based upon BAM 115 and BAM 130 policy requirements, the Department should have sought written verification of the Claimant's assets and bank account information before it denied the Claimant's applications for medical assistance and food assistance due to excess assets.

Therefore, based upon the evidence provided it is determined that the Department improperly denied the food assistance and the medical assistance application filed by the Claimant. BAM 130, BAM 115 and BEM 400. 7/1/14 pp. 5 -7.

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 the Claimant's application for Food Assistance and Medical Assistance.

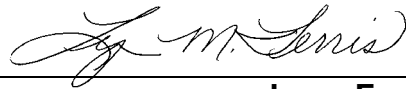
### **DECISION AND ORDER**

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. The Department shall re-register the Claimant's applications for Medical Assistance and Food Assistance associated with the September 4, 2014 Notice of Case action and shall re-determine the Claimant's asset eligibility in accordance with Department Policy and this Hearing Decision regarding verification and processing requirements.
2. The Department shall issue a FAP supplement if the Claimant is otherwise determined subsequently to be eligible in accordance with Department policy.



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**Lynn Ferris**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 6, 2014  
Date Mailed: November 6, 2014  
LMF/tm

**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:

