

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015829
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: December 16, 2014
County: Jackson

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 December 16, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Food Assistance Program (FAP) recipient until November 1, 2014.
2. On August 18, 2014, the Department opened an investigation into whether the Claimant met the asset limit requirements of the Food Assistance Program (FAP).
3. On September 25, 2014, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of how the Claimant had disposed of her assets by October 6, 2014.
4. On October 15, 2014, the Department closed the Claimant's Food Assistance Program (FAP) benefits for failure to provide the Department with information necessary to determine her eligibility to receive benefits.
5. On October 15, 2014, the Department received the Claimant's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits.

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.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2013), pp 1-7.

Divestment occurs if a FAP group transfers assets for less than the fair market value for any of the following reasons:

- To qualify for program benefits.
- To remain eligible for program benefits. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2014), p 1.

When divestment occurs, the FAP group is disqualified and the case is closed for the divested period. Department of Human Services Bridges Eligibility Manual (BEM) 406 (February 1, 2014), p 1.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (April 1, 2014), p 5.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (July 1, 2014), pp 1-9.

The Claimant was an ongoing Food Assistance Program (FAP) recipient when the Department opened an investigation into whether the Claimant's countable assets exceeded the limit allowable by policy. The countable asset limit for the Food Assistance Program (FAP) is \$5,000. The Department determined that the Claimant had properly reported a large sum of income which became a countable asset the month after it was received. BEM 400. On September 25, 2014, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of how the Claimant disposed of her cash assets. It was necessary for the Department to verify this to determine whether a divestment had occurred, or if no divestment had occurred then to determine the Claimant's countable assets.

On October 14, 2014, the Claimant had failed to present sufficient verification of how she had disposed of her assets and the Department closed her Food Assistance Program (FAP) benefits.

The Claimant testified that she had spent the money quickly and that she was unable to account for how each and every dollar was spent.

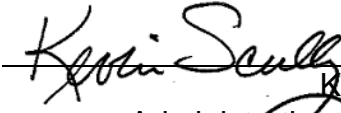
Whether the Claimant is required to account for every dollar she had spent since April of 2014 is not relevant since the Claimant has been unable to verify a significant portion of the assets she had disposed of. The Department's witness testified that the material the Claimant did provide established that she made several withdrawals from her account, for several thousand dollars each.

This Administrative Law Judge finds it reasonable for the Department to require the Claimant to verify large expenditures such as these to adequately determine whether a divestment had occurred.

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 acted in accordance with Department policy when it closed the Claimant's Food Assistance Program (FAP) benefits for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/22/2014**

Date Mailed: **12/22/2014**

KS/las

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:

