

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-019150
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: February 3, 2015
County: Calhoun (District 21)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 February 3, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her friend, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator/Eligibility Specialist [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

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

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 received FAP benefits.
2. Claimant provided the Department with a bank statement dated [REDACTED] (Exhibit A Page 3C) showing she had a balance ranging from \$ [REDACTED] to \$ [REDACTED] between [REDACTED].
3. Due to excess assets, on December 15, 2014, the Department sent notice that it would close Claimant's case beginning January 1, 2015.
4. On December 29, 2015, 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.

BEM 400 (2/1/14) details the asset limits for various benefit programs. The asset limit for FAP is \$ [REDACTED] *Id* at 5. Claimant had more than \$ [REDACTED] in her bank account. There was testimony that she had totaled her car and had received insurance proceeds totaling more than \$ [REDACTED] which she deposited into her account. But for the insurance proceeds, she would not have exceeded the limit.

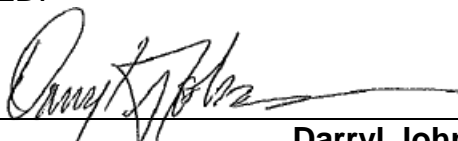
BEM 400 at page 1, "Assets mean cash, any other personal property and real property." At page 8, "An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset."

Claimant testified that the bank statement was accurate. Perhaps her account has been diminished since the statement was prepared but that is not relevant. What is relevant is that, at the time she verified her assets, she had much more than \$ [REDACTED] in the bank. She exceeded the asset limit of \$ [REDACTED] for her to receive FAP benefits.

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 Claimant's FAP.

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/5/2015**

Date Mailed: **2/5/2015**

DJ/jaf

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 48909-8139

cc:

