

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201429921  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: April 10, 2014  
County: Oakland County DHS #2

**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 April 10, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly terminated the Claimant's Food Assistance Program (FAP) benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon 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.
2. On February 4, 2014, the Department sent the Claimant a Verification of Assets (DHS-20).
3. The Claimant completed the Verification of Assets (DHS-20).
4. The Claimant received retroactive benefits from the Social Security Administration in July of 2011.
5. The Department determined that the Claimant had countable assets totaling \$13,130.28.
6. On February 19, 2014, the Department notified the Claimant that it would terminate his Food Assistance Program (FAP) benefits as of March 1, 2014.

7. The Department received the Claimant's request for a hearing on February 24, 2014, protesting the termination of his Food Assistance Program (FAP) benefits.

### **CONCLUSIONS OF LAW**

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 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.

The Department will exclude retroactive Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI) benefits for nine calendar months beginning the month after payment is received. BEM 400, p 20.

In this case, the Claimant was an ongoing Food Assistance Program (FAP) recipient when the Department sent him a Verification of Assets (DHS-2). Based on the information the Claimant reported to the Department on this form, the Department determined that the Claimant's countable cash assets exceed the \$5,000 limit to participate in the Food Assistance Program (FAP). BEM 400, p5.

On February 19, 2014, the Department notified the Claimant that it would close his Food Assistance Program (FAP) benefits.

The Claimant testified that the source of the cash assets in his bank account are from a retroactive benefit payout from the Social Security Administration and therefore should be excluded from countable assets. The Claimant testified that he was previously eligible for Food Assistance Program (FAP) benefits with the same assets.

Whether the Claimant was eligible during previous months is not relevant to this hearing, but the only issue to be settled here is whether the Department properly terminated the Claimant's Food Assistance Program (FAP) benefits as of March 1, 2014, due to excess assets.

The Claimant provided documentation showing that he received retroactive benefits from the Social Security Administration in July of 2011. The remainder of these benefits is in a bank account owed by the Claimant and has been used to pay his expenses including making care payments and moving costs. The value of these funds exceeds \$ [REDACTED] as of March 1, 2014.

The Department established that it was acting in accordance with policy when it terminated the Claimant's Food Assistance Program (FAP) benefits as of March 1, 2014, due to excess assets.

**DECISION AND ORDER**

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 terminated the Claimant's Food Assistance Program (FAP) benefits due to excess assets.

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



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

Date Signed: April 15, 2014

Date Mailed: April 15, 2014

**NOTICE OF APPEAL:** The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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;

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- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant 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 the hearing decision is mailed.

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

KS/hj

cc:

