

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7525
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: November 26, 2013
County: Macomb-36

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 November 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant, [REDACTED] husband, and [REDACTED], Behavioral Health Technician. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) case based on exceeding the asset limit for the program?

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 recipient of FAP benefits.
2. The Claimant's husband was included in the FAP group.
3. On September 24, 2013, a redetermination of the Claimant's FAP case was processed.
4. On September 24, 2013, a Verification Checklist was issued to the Claimant stating savings account verification for the Claimant's husband was needed by the October 4, 2013, due date. (Exhibit 2)
5. On October 3, 2013, bank verification was returned showing the Claimant's husband has previously unreported accounts with his sister/Guardian/Conservator including a checking account with a balance of \$ [REDACTED] and a money market savings account with a balance of \$ [REDACTED] (Exhibit 3, page 2)

6. On October 5, 2013, the Department issued a Notice of Case Action stating the Claimant's FAP case would close effective November 1, 2013, because the value of countable assets is higher than allowed for the FAP program. (Exhibit 5)
7. On October 29, 2013, the Claimant filed a request for hearing protesting the Department's action. (Exhibit 1)

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 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.

Additionally, asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. The FAP asset limit is \$5,000. Checking, savings and money market accounts are considered cash assets. For FAP, the lowest checking, savings or money market balance in the month is to be used when determining asset eligibility. Jointly owned assets are assets that have more than one owner. An asset is unavailable if an owner cannot sell or spend his share of an asset: without another owner's consent, and the other owner is not in the asset group, and the other owner refuses consent. BEM 400.

The Claimant was an ongoing recipient of FAP benefits. The Claimant's husband was included in the FAP group. On September 24, 2013, a redetermination of the Claimant's FAP case was processed. On September 24, 2013, a Verification Checklist was issued to the Claimant stating savings account verification for the Claimant's husband was needed by the October 4, 2013, due date. (Exhibit 2)

On October 3, 2013, bank verification was returned showing the Claimant's husband has previously unreported accounts with his sister/Guardian/Conservator including a checking account with a balance of \$ [REDACTED] and a money market savings account with a balance of \$ [REDACTED] (Exhibit 3, page 2) The Department determined that the Claimant and her husband were not eligible for FAP based on total countable assets totaling \$ [REDACTED] (Exhibit 4, page 2) Accordingly, on October 5, 2013, the Department issued a Notice of Case Action stating the Claimant's FAP case would close effective November 1, 2013, because the value of countable assets is higher than allowed for the FAP program. (Exhibit 5)

The Claimant and her husband asserted that the Claimant's husband does not have any control of assets because his sister has custody of him. Rather, the sister only gives

them \$ [REDACTED] per week. The Behavioral Health Technician's testimony confirmed the weekly allowance. The agency he works for receives the money from the sister and they are responsible to dole it out to the Claimant's husband.

The Eligibility Specialist testified that pre-hearing conferences were held with the Claimant and with the Claimant's husband's sister/Guardian/Conservator. The Eligibility Specialist credibly testified she confirmed with the Claimant's husband's sister/Guardian/Conservator that the asset is not a trust and the funds are available for the Claimant's husband's needs.

It was uncontested that the Claimant's husband only receives \$ [REDACTED] per week. However, the BEM 400 policy is clear that money market accounts are considered cash assets. The bank verifications document the balance of the money market account alone was over \$ [REDACTED]. The Eligibility Specialist confirmed with the Claimant's husband's sister/Guardian/Conservator that this asset is not a trust and the funds are available for the Claimant's husband's needs. There was no evidence that the account balance was less than, or equal to, the \$5,000 asset limit for the FAP program at least one day during the month being tested. Accordingly, it is a countable asset and the Claimant's FAP group's countable assets exceed the limit for the FAP program.

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 FAP case based on exceeding the asset limit for the program.

DECISION AND ORDER

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

Colleen Lack

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 2, 2013

Date Mailed: December 3, 2013

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;
- 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

CL/las

cc:

