

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011497
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: October 09, 2014
County: Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 October 9, 2014, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED] and FIM [REDACTED].

ISSUE

Did the Department properly deny Claimant's July 18, 2014, Food Assistance Program application due to excess assets?

FINDINGS OF FACT

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

1. On July 18, 2014, Claimant submitted a Food Assistance Program application. An in-person interview was conducted by DHS C/W [REDACTED] and she signed the application. During the interview C/W [REDACTED] made a note on the application in section H Asset Information based on Claimant telling her he owned some stock with a value of approximately \$ [REDACTED] which he could not cash. C/W [REDACTED] wrote "no access" on the application.
2. On July 22, 2014, Claimant's application was denied for excess assets. C/W Hall made a case comment note "He stated he has stocks through Lighthouse \$ [REDACTED] but states he does not have access to them without penalty."
3. On July 30, 2014, Claimant submitted a hearing request.

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.

No one disputes that the Food Assistance Program asset limit is \$5000 or that \$ [REDACTED] is greater than the asset limit. DHS C/W [REDACTED] was not present for this hearing. The Department representatives who were present rely on C/W [REDACTED] case notes which imply that the stocks were available to Claimant but he would be penalized for cashing them. The Department correctly asserts that Bridges Eligibility Manual (BEM) 400 Assets states stocks are countable assets and that verification is not required when the countable assets exceed the limit based on the person's own statement. BEM 400 also states that an asset must be available. That is the issue which Claimant has raised.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943). Based on the totality of evidence in this record, Claimant's testimony that he told C/W Hall the stocks are not available to him is found credible.

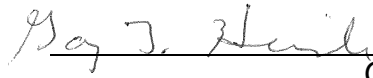
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's July 18, 2014, Food Assistance Program application due to excess assets.

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. Reinstate Claimant's July 18, 2014, Food Assistance Program application and process it in accordance with Department policy to include verification of the availability of the stocks at issue in this hearing.
2. When the application has been processed, issue Claimant a current Notice of Case Action (DHS-1605) showing the eligibility determination.



Gary Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/13/2014**

Date Mailed: **10/13/2014**

GFH/hj

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:

