

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

IN THE MATTER OF:

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Reg. No.: 15-003617
Issue No.: 3001
Case No.: ██████████
Hearing Date: April 15, 2015
County: Macomb-District 12

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 15, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly deny Claimant's January 16, 2015 application for Food Assistance Program (FAP) benefits 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 January 16, 2015, Claimant applied for FAP benefits.
2. In connection with processing the application, on January 21, 2015, the Department sent Claimant a Verification Checklist (VCL) requesting, among other things, verification of savings and checking accounts by February 2, 2015.
3. On February 9, 2015, Claimant submitted the following verifications: (i) a ██████████ (SECU) savings (shared) account statement dated November 21, 2014; (ii) a SECU checking account statement dated November 21, 2014; and (iii) a ██████████ (UCB) statement dated January 23, 2015.

4. The Department denied Claimant's application.
5. On March 5, 2015, Claimant filed a request for hearing disputing the Department's actions.

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.

Claimant requested a hearing to dispute the denial of her January 16, 2015 FAP application. The Department did not provide any Notices of Case Action showing the actions it took regarding the application. It testified that the application was initially denied in a February 9, 2015 Notice of Case Action because Claimant had failed to verify requested information, but, when it determined that the verifications were submitted on February 9, 2015, it reregistered and reprocessed the application under Department policy concerning subsequent processing. See BAM 115 (January 2015), p. 23. The Department testified it sent Claimant a March 6, 2015 Notice of Case Action denying the application for excess assets. Because the Department continued to process the same application and addressed the asset issue during the prehearing conference with Claimant, the merits of the excess asset issue were considered at the hearing.

In order to be eligible for FAP, a client may not have assets, which includes the value of cash in bank accounts, in excess of the asset limit. BEM 400 (January 2015), pp. 1, 14. For FAP, the asset limit is \$5000. BEM 400, p. 5. The Department must verify assets at application, redetermination and when a change is reported. BEM 400, p. 56.

In this case, the Department concluded that Claimant had assets exceeding \$5000 based on the combined balances in the SECU savings account, SECU checking account, and UCB checking account. Claimant acknowledged that the UCB account was hers but argued that, although she was listed as a joint owner of the SECU savings and checking accounts, the accounts were both her mother's, the other joint owner, and she was listed on the accounts only as a convenience to facilitate her housing arrangement with her mother: Claimant explained that her mother was the mortgagor of

a home Claimant owned in [REDACTED] and part of the terms of this arrangement required Claimant to make \$500 monthly payments to the joint SECU checking account, \$247.10 which would be paid to Claimant's mother towards the mortgage payment and the remainder of which Claimant would pay towards the outstanding property taxes, flood insurance policy, and homeowner's insurance policy on the home. Claimant further explained that she was listed as a joint owner of the checking account because she was responsible for making the payments concerning the property to the appropriate parties and that her name also appeared as joint owner of the SECU savings account because the financial institution required that she be listed as a joint owner of both accounts. Claimant provided a letter signed by her mother explaining the terms of their transactions and verifying that, although Claimant's name appeared on both SECU accounts, none of the funds in these accounts were for her personal use (Exhibit 2).

In order to be countable, an asset must be available. BEM 400, p. 9. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 9. An asset is assumed to be available unless evidence shows that it is not available. BEM 400, p. 9.

In this case, Claimant argues that the SECU checking and savings account were not available to her. Jointly owned assets are unavailable if **all** of the following are true: (i) the owner cannot sell or spend his share of an asset without another owner's consent; (ii) the other owner is not in the asset group, and (iii) the other owner refuses consent. BEM 400, pp. 10-11. Because, as a joint owner of the SECU checking and savings accounts, Claimant has a legal right to the funds in those accounts, the first condition is not satisfied and the funds in the accounts **are** available to Claimant. Because the program at issue is the FAP program, Department policy does not allow the client to claim and verify a different ownership for jointly held accounts. See BEM 400, p. 11. Therefore, the Department properly considered the value of the SECU checking and savings accounts when it calculated the value of Claimant's assets.

The lowest balance in the SECU savings account, \$4185.22, plus the lowest balance in the SECU checking account, \$2454.07, less the \$500 monthly deposit made by Claimant according to the terms of the Modification of Note and Deed of Trust (Exhibit 2) from her UCB account, is greater than \$5000. Because the value of the SECU accounts and Claimant's UCB account exceed \$5000, the Department acted in accordance with Department policy when it denied Claimant's January 16, 2015 FAP application for excess assets.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health & Human Services

Date Signed: **4/20/2015**

Date Mailed: **4/20/2015**

ACE / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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