

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

IN THE MATTER OF:

████████████████████
████████████████████
██

Reg. No.: 15-007692
Issue No.: 3001
Case No.: ██████████
Hearing Date: August 6, 2015
County: Oakland (3)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on August 6, 2015, from Southfield, Michigan. Participants included the above-named Claimant. ██████████, Claimant's spouse, testified on behalf of Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, supervisor.

ISSUE

The issue is whether MDHHS properly terminated Claimant's Food Assistance Program (FAP) eligibility 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. Claimant was an ongoing FAP benefit recipient.
2. On April 4, 2015, Claimant received a lump sum payment of ██████████ from the ██████████ (see Exhibit 6).
3. Since receiving the lump sum payment and through the date of hearing, Claimant had at least \$ ██████████ in her checking account.
4. On May 21, 2015, MDHHS terminated Claimant's FAP eligibility, effective July 2015, due to excess assets.

5. On May 27, 2015, Claimant verbally requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a termination of FAP benefits, effective July 2015. MDHHS presented a Notice of Case Action (Exhibits 1-4) which stated that the reason for FAP termination was excess assets.

Assets must be considered in determining eligibility for FAP. BEM 400 (April 2015), p. 1. The asset limit is \$5,000 or less. *Id.*, p. 5. (For FAP benefits), MDHHS is to use the lowest checking, savings or money market balance in the month when determining asset eligibility. *Id.*, p. 14. (For FAP benefits), lump sums and accumulated benefits are assets starting the month received. *Id.*, p. 15.

Claimant testified she is paying her son's bills at [REDACTED]. Claimant testified that she recently incurred costs in helping her son move from a [REDACTED]-based college. Claimant testified she has credit card debt [REDACTED], as well as a court-ordered obligation to pay [REDACTED]. Claimant testified she recently had had to buy new shoes and new clothes. Claimant testified she recently had to buy a new computer after her old one broke down after 12 years. Claimant testified that she recently incurred vehicle repair expenses (new brakes and an exhaust system). Claimant testified she has monthly medical expenses. Claimant testified she was recently victimized in a home invasion. Claimant testified her spouse does not receive any income. Claimant testified she cannot afford auto insurance. Claimant testified she has utility bills. Claimant testified she recently had to repay a loan to her sister-in-law. Claimant's testimony suggested that her many recent expenses justified continuing her FAP eligibility.

Despite Claimant's numerous expenses, Claimant testimony conceded that she had at least [REDACTED] in assets since she received the lump sum payment [REDACTED]. Thus, it was not disputed that Claimant's assets exceeded FAP asset limits. It is found that MDHHS properly terminated Claimant's FAP eligibility.

Claimant testimony suggested that her assets may fall under [REDACTED] very soon. During the hearing, Claimant was advised that she can reapply for FAP benefits at any time for a new eligibility determination based on Claimant's new circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Claimant's FAP benefit eligibility, effective July 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **8/6/2015**

Date Mailed: **8/6/2015**

GC/tm

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]