

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2009-19648

Issue No: 2021, 3021

Case No: ██████████

Load No: ██████████

Hearing Date:

June 11, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing on April 21, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 11, 2009. The Claimant was present and was represented by his attorney, ██████████. ██████████ was also present. Delores McGargal, FIM, Raven Florence, Assistance Payment Worker, and Arthur Foreman, OIG Agent appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP & MA case on 2/19/09?

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 a FAP & MA recipient.
2. The Department received information that led it to believe that Claimant owned excess property. Therefore, the Department ordered an investigation.

3. The investigator testified at the hearing about his findings as follows:
 - a. Claimant's husband is taxpayer and owner of [REDACTED], also known as [REDACTED] at [REDACTED], [REDACTED].
 - b. Claimant's husband is listed as taxpayer and owner for property located at [REDACTED].
 - c. Husband is owner, not employee of [REDACTED].
 - d. Husband purchased a [REDACTED] and obtained a vehicle title on [REDACTED].

(Exhibit 3).

4. The Department closed Claimant's FAP and MA cases on February 19, 2009.
5. On April 21, 2009 the Department received the Claimant's hearing request protesting the closure of the FAP and MA benefits.
6. The following relevant documents were reviewed:

Department Documents:

- a. Assistance Application, signed by Claimant, listing home phone as [REDACTED] [REDACTED] (Exhibit 1, p. 13-16).
- b. OIG Investigative Findings Report (Exhibit 3).
- c. Payroll/rent records of Claimant (Exhibit 1, pp. 2-3).
- d. Wage Verification for Claimant from [REDACTED] (Exhibit 1, pp. 4-5 signed by [REDACTED]).
- e. Shelter Verification signed by [REDACTED] (Exhibit 1, p. 10)
- f. Articles of Incorporation [REDACTED]. (Exhibit 4, pp. 1-3).
- g. Property Tax Information Printouts (Exhibit 5, pp. 1-6):
 - [REDACTED]
 - [REDACTED]
- h. White pages print out for [REDACTED] and [REDACTED] (Exhibit 6).
- i. 2007 Profit Corporation Information Update for [REDACTED] (Exhibit 8).

- j. Real Estate Search showing [REDACTED] quit claim deed on [REDACTED]. (Exhibit 9)
- k. Documents regarding property located at [REDACTED]. (Exhibit 10).
- l. DLEG Corporate Entity printout showing that [REDACTED] was automatically dissolved. (Exhibit 11).

Claimant Documents:

- a. [REDACTED] Deed transfer of [REDACTED] (Exhibit D1).
- b. Warranty Deed showing sale by [REDACTED] to [REDACTED] (Exhibit D2).
- c. Certificate of Discontinuance of Business under an Assumed Name (Exhibit D3).
- d. Satisfaction/discharge of mortgage for [REDACTED] (Exhibit D4).
- e. Documents relating to foreclosure of [REDACTED] (Exhibit D5).
- f. [REDACTED] Impound Notice (Exhibit E).

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp (“FS”) program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (“CFR”). The Department of Human Services (“DHS”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA

program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Assets must be considered in determining MA eligibility. PEM 400, p. 1. Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. PEM 400, pp. 1, 6. Available means that someone in the asset group has the legal right to use or dispose of the asset. PEM 400, p. 6. The SSI related asset limit is \$2,000 for a group of one and \$3,000 for a group of two. PEM 400, p. 5. Lump sums and accumulated benefits are income in the month received. PEM 400, p. 10.

A group's earned income is considered in the award of benefits. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. PAM 500 at p. 1.

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In the record presented, the Administrative Law Judge makes the following findings of fact. First, Claimant's husband is the taxpayer and owner of [REDACTED], also known as [REDACTED] located at [REDACTED]. This was determined after consideration of the following information.

1. Claimant's husband is one of the original incorporators for [REDACTED]. (Exhibit 4, pp. 1-3).
2. Claimant's husband and [REDACTED] are still listed as the taxpayer on the business property of [REDACTED].
3. A white pages search reveals [REDACTED] is still located at [REDACTED]. (Exhibit 6).
4. Claimant's attorney argued that 2005 Exhibit D3 a Certificate of Discontinuance of [REDACTED] should refute the evidence above. (Exhibit D3). The undersigned does not find this document sufficient to refute the evidence above as in 2007; claimant's husband was listed as the President of the corporation for a Profit Corporation Information update. (Exhibit 8).
5. Claimant works at the subject business and the phone number listed for [REDACTED] is the same as was provided by the Claimant in her application. (Exhibit 3, Exhibit 2, and Exhibit 1, p. 13).

Second, the undersigned also finds that the Claimant and her husband no longer own [REDACTED] (Exhibit D1) or [REDACTED] and [REDACTED] (Exhibit D2); and that the property [REDACTED] was submitted to a sheriff's sale (Exhibit D5). While Claimant no longer owns the above properties, it is not enough to refute the excess property located at [REDACTED]. The undersigned, therefore, does not find Claimant's explanations sufficient or credible.

Based upon the foregoing facts and relevant law, it is found that the Department properly closed the Claimant's FAP and MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly closed the Claimant's FAP and MA case.

Accordingly it is ordered that the Department's 2/19/09 FAP and MA closure is AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/06/09

Date Mailed: 08/06/09

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JV/dj

cc:

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