

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

**IN THE MATTER OF:**



Reg. No.: 2012-39451  
Issue No.: 3019  
Case No.: [REDACTED]  
Hearing Date: April 11, 2012  
County: Grand Traverse

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**HEARING DECISION**

In accordance with MCL 400.9, MCL 400.37, and 1999 AC, R 400.903, a hearing was held in this matter on April 11, 2012. Claimant personally appeared and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

**ISSUE**

In dispute was whether the Department properly denied Claimant's application for the Food Assistance Program (FAP) based on excess assets.

**FINDINGS OF FACT**

Based on the competent, material, and substantial evidence on the whole record, including the testimony of witnesses, the Administrative Law Judge, finds as relevant fact:

1. Claimant applied for Food Assistance Program (FAP) benefits on 11/8/11.
2. On February 17, 2012, the Department sent Claimant notice that her FAP application was denied due to excess assets.
3. On March 3, 2012, Claimant filed a hearing request, contesting the Department's denial of FAP benefits.

**CONCLUSIONS OF LAW**

The FAP [formerly known as the Food Stamp (FS) program] was 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 administers the FAP in accordance with MCL 400.10, *et seq.*, and 1997 AACS, R 400.3001 through R 400.3015. Agency policies pertaining to this program are found in the BAM, BEM, and RFT.

To determine FAP eligibility, the group's assets during the benefit month cannot exceed \$5,000.00. BEM 400. Assets means cash, any other personal property and real property. The department does not count real property that the FAP group is making a good-faith effort to sell if all of the following are met:

- No reasonable purchase offer has been made.
- For active cases, the property is continuously up for sale.
- An actual attempt has been made to sell it at a price not higher than the fair market value.

At application, Claimant listed real property she owned in Arizona with a mortgage of [REDACTED]. Claimant testified during the hearing that her realtor originally listed the property for [REDACTED], and it was only through talking with the departmental representative at the pre-hearing conference, that Claimant learned her property was listed for more than fair market value (FMV). Claimant submitted documentation during the pre-hearing conference showing the SEV was [REDACTED] which would make the FMV of the property [REDACTED].

At the time of application, the department relied on the amount owed by Claimant on her real property to process her application. That amount was [REDACTED]. In actuality, as discovered during the pre-hearing conference, the FMV of Claimant's property was [REDACTED]. The department does not dispute that no reasonable purchase offer has been made or that Claimant has not been making a good-faith effort to sell the property and it is continuously up for sale. However, because the actual attempt to sell the property is at a price higher than fair market value [REDACTED] the department must count the real property. Accordingly, the Department properly denied Claimant's application for FAP because she had listed her real property for more than FMV and she had assets in excess of [REDACTED].

### **DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, and for the reasons stated on the record, the Administrative Law Judge finds that the Department did act properly.

Accordingly, the Department's decision is AFFIRMED.

It is SO ORDERED.

/s/

Vicki L. Armstrong  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 4/13/12

Date Mailed: 4/13/12

**NOTICE:** 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 60 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
  - the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-07322

VLA/ds

■ [REDACTED]