

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

IN THE MATTER OF:



Reg. No.: 201263450
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: August 15, 2012
County: Oakland DHS (04)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 15, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Food Assistance Program (FAP) benefits to Claimant 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 6/14/12, Claimant applied for FAP benefits.
2. At the time of Claimant's application, Claimant owned two homes, a residence and a vacation property.
3. The vacation property had approximately \$100,000 in equity.
4. At the time of Claimant's application, Claimant's vacation property was not listed for sale.
5. On 6/25/12, DHS denied Claimant's application for FAP benefits due to excess assets.

6. On 7/6/12, Claimant requested a hearing to dispute the FAP benefit denial as well as a denial of Family Independence Program (FIP) benefits.
7. Claimant no longer disputes the FIP benefit application denial.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

Claimant requested a hearing to dispute a FAP benefit application denial. It was not disputed that the basis for the denial was excess assets.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 at 1. The asset limit for FAP benefits is \$5,000 or less. *Id.* at 4. For FAP benefits, DHS is to exclude the value of a homestead (i.e. residence). *Id.* at 24. DHS is to consider the equity value of other real property. *Id.* Equity value is the fair market value minus the amount legally owed in a written lien provision. *Id.* DHS is to not count real property that the FAP group is making a good-faith effort to sell. *Id.* at 10.

It was not disputed that Claimant owned two properties, a residence and a vacation property. Claimant noted that he recently tried to sell the vacation property, but that he did not list the property for sale until after the FAP benefit application was denied. If Claimant reapplies for FAP benefits, the vacation property may be exempt from the asset consideration as a non-salable asset. For purposes of this decision, which considers the circumstances at the time of denial, the vacation home was a countable asset.

Claimant conceded that the vacation property had an equity value of approximately \$100,000, well beyond the \$5,000 asset limit for FAP benefits. Based on the presented evidence, it is found that Claimant's countable assets exceeded the asset limit for FAP benefits. Accordingly, the DHS denial of Claimant's FAP benefit application is found to be proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP benefit application dated 6/14/12 due to excess assets.

The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 17, 2012

Date Mailed: August 17, 2012

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 90 days of the filing of the original request. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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

CG/hw

cc:

