

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No: 201263558
Issue No: 3021
Case No: [REDACTED]
Hearing Date: August 7, 2012
Genesee #02 County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on August 7, 2012. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's June 26, 2012 Food Assistance Program (FAP) application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On June 26, 2012, Claimant submitted an application for Food Assistance Program (FAP) benefits. On the application Claimant listed one of her assets as a vacant lot with a State Equalized Value of [REDACTED]. Claimant also noted on the application that the lot was listed for sale with a realtor.
2. On June 28, 2012, Claimant's Food Assistance Program (FAP) application was denied due to excess assets.
3. On July 9, 2012, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-

3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Claimant asserts the lot fits the Department's policy definition of a non-salable asset. Claimant asserts the lot should not be used in her eligibility determination. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 400 ASSETS

DEPARTMENT POLICY

Family Independence Program (FIP), State Disability Assistance (SDA), Refugee Assistance Program Cash (RAPC), Low-Income Family MA (LIF), Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-Related MA, Adult Medical Program (AMP) and Food Assistance Program (FAP)

Assets must be considered in determining eligibility for FIP, SDA, RAPC, LIF, G2U, G2C, SSI-related MA categories, AMP and FAP.

Assets Defined

Assets means cash, any other personal property and real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. **Personal property** is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles).

NON-SALABLE ASSETS

FAP Non-Salable Assets

FAP

Do **not** count **real property** that the FAP group is making a **good-faith effort** to sell. All of the following must be met for the real property to be excluded:

- 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.

When the Department denied the application they had a Notice of Assessment, Taxable Valuation, and Property Classification form on the property. No additional information or verification about the lot was requested and an evaluation as a non-salable asset was not conducted. Because Claimant did indicate that the lot was listed for sale on the application, a denial should not be made until an evaluation as a non-salable asset has been done on the lot.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly deny Claimant's June 26, 2012 Food Assistance Program (FAP) application.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that Claimant's June 26, 2012 Food Assistance Program (FAP) application be reinstated and processed in accordance with Department policy to include gather verifications necessary to conduct an evaluation of the lot as a non-salable asset.

/s/
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 13, 2012

Date Mailed: August 13, 2012

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 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 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.

GFH/tb

cc:

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