

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

IN THE MATTER OF:

[REDACTED]

Reg. No: [REDACTED]

Issue No: 3015

Case No: [REDACTED]

Hearing Date:

November 30, 2011

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 received on September 28, 2011. After due notice, a telephone hearing was held on November 30, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the Department of Human Services (Department) properly determined Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

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

1. Claimant was receiving FAP benefits in the amount of [REDACTED] per month at all times pertinent to this hearing.
2. On October 14, 2011, the Department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that effective October 14, 2011, his FAP benefits case would be closed for the reason that his assets exceeded the [REDACTED] asset limit set forth in new Department policy effective October 1, 2011. (Department Hearing Summary)
3. On September 28, 2011, Claimant submitted a hearing request protesting the Department's closure of his FAP benefits case.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 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), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The Department determines a client's eligibility for FAP benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department also determines a client's eligibility for FAP benefits based on, among other things, the client's assets. BEM 400. Effective October 1, 2011, the FAP asset limit is \$5,000.00. BEM 400, p. 4. Assets mean 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, such as currency, savings accounts and vehicles. BEM 400. However, the department must exclude from consideration the client's homestead, as well as any rental and vacation properties if the client is renting the property to produce income. BEM 400, pp. 25- 27.

In this case, because Claimant's assets include real property that exceeds the [REDACTED] asset limit set forth in BEM 400, the Department closed Claimant's FAP benefits case.

At the hearing, Claimant acknowledged that he owns real property that exceeds the [REDACTED] asset limit set forth in BEM 400, and is not otherwise being used as Claimant's homestead or as a rental or vacation property.

The Administrative Law Judge therefore finds that, based on the material and substantial evidence presented during the hearing, the Department properly determined Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record, decides that the Department properly determined Claimant's FAP eligibility.

Accordingly, the Department's decision is UPHELD.

It is SO ORDERED.

/s/ _____
[REDACTED]
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/30/11

Date Mailed: 12/1/11

NOTICE: Michigan Administrative Hearings 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 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.

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