

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201211663
Issue No. 3021
Case No. [REDACTED]
Hearing Date: December 7, 2011
Oakland County DHS (02)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on December 7, 2011 from Detroit, Michigan. The claimant appeared and testified; Nathan Chambers appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly terminated Food Assistance Program (FAP) benefits due to excess assets by Claimant.

FINDINGS OF FACT

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

1. Claimant and her spouse were ongoing FAP benefit recipients.
2. Claimant and her spouse are owners of two vehicles, a [REDACTED] and a [REDACTED].
3. DHS determined that the [REDACTED] was valued at \$16,190 based on an assessment that it was in "good" condition (see Exhibits 6-9).
4. DHS determined that Claimant had cash assets valued at \$976.39 (see Exhibit 10)

5. DHS determined a "low retail value" of the [REDACTED] r was \$4,925 (see Exhibit 11).
6. On 9/2/11, DHS mailed a Notice of Case Action (Exhibits 14-15) informing Claimant of an initiated termination of FAP benefits based on Claimant's vehicles and cash exceeding the allowable asset limits.
7. On 11/7/11, Claimant requested a hearing to dispute the FAP benefit termination.

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).

The controlling DHS regulations are those that were in effect as of 10/2011, the effective month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

For FAP benefits, there is a \$15,000 limit on countable vehicles owned by the FAP group. BEM 400 at 28. DHS is to enter the fair market value of all licensed and unlicensed vehicles and the mileage. *Id.* Values are to not allow for options such as low mileage, automatic transmission, power windows and power locks. *Id.*

Bridges (the DHS database) adds together the fair market value of all licensed and unlicensed vehicles which are not excluded and subtracts \$15,000 to determine the countable value. *Id.* If the countable value exceeds \$15,000 the excess is applied towards the \$5,000 FAP benefit asset limit. *Id.*

DHS regulations instruct specialists how to obtain vehicle values. The outlined procedure instructs specialist as follows (see BEM 400 at 44-45):

- Use Kelley Blue Book at (www.kbb.com) or NADA Book at (www.nadaguides.com) wholesale (trade-in) value.
- Do not add the value of optional equipment, special equipment or low mileage when determining value.
- Enter the greater of actual mileage or 12,000 per year; for FAP benefits, accept the client's statement on the actual mileage.
- Enter the client's zip code.
- Do not change the preset typical equipment.

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- Enter “fair” as the condition.
- Use the trade-in value.

The DHS submitted Cadillac estimate was inaccurate based on two factors. DHS relied on the Cadillac’s “good” condition value of \$16,190. The DHS obtained estimate noted a “fair” condition value of \$14,840. Based on DHS regulations, DHS should have utilized the lower “fair” condition value.

The DHS calculation also relied on a mileage of 40,000 miles. As noted above, DHS is to input the greater of actual mileage or 12,000 miles per year. Even if Claimant’s actual mileage was 40,000 miles, DHS would be required to base the value on a mileage of 72,000 miles (6 years x 12,000 miles), the greater amount between the two.

DHS regulations also allow clients to rebut DHS calculated values. DHS is to allow the person to verify a claim that the vehicle is worth less (example: due to damage) than wholesale book value. BEM 400 at 45.

Claimant also obtained a value for the [REDACTED]. Claimant used the same website used by DHS but inputted more information about her vehicle’s condition. Claimant obtained two different trade-in values which were considerably less than the DHS estimate. Part of the discrepancy is likely attributed to the difference in mileage factored into the value. Claimant used mileages of 89,000 to calculate a fair-condition value of \$10,968 (see Exhibit 20) and 124,000 to calculate a fair-condition value of \$7833 (see Exhibit 21). Unfortunately, there was no evidence given concerning the car’s actual mileage.

As discussed above, DHS made one error in the vehicle’s value calculation (mileage) and a second error in choosing a “good” condition value. Claimant’s estimate may not be correct based on actual mileage (though maybe it is), but it is at least closer to the value of 72,000 miles than the DHS estimate. The lesser estimate of \$7833 from Claimant is disregarded based on a general rule that conflicting evidence from the same policy will be construed favorably for the other party. Based on the presented evidence, Claimant’s presented estimate of \$10,968 will be adopted.

Adding the correct [REDACTED] value (\$10,968) to the DHS value of the [REDACTED] (\$4,925) results in a total vehicle value of \$15,893. Applying the \$15,000 exemption creates an overflow of \$893 in assets. Applying this amount with the cash asset balance (\$976.39) totals a countable asset value of \$1869.39. This amount is below the \$5,000 asset limit. Accordingly, it is found that DHS erred in terminating Claimant’s FAP benefits due to excess assets.

It should be noted that this decision does not address whether DHS properly calculated the value of the Jaguar or cash assets. These issues were not addressed because they

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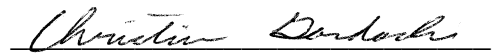
became moot based on the finding which changed the value of the [REDACTED] which, by itself, was sufficient to reverse the DHS determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's ongoing FAP benefits. It is ordered that DHS:

- amend the value of Claimant's [REDACTED] to \$10,968
- reinstate Claimant's FAP benefits to the date of closure;
- supplement Claimant for any benefits not received as a result of the DHS valuation error.

The actions taken by DHS are REVERSED.


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

Date Signed: 12/22/11

Date Mailed: 12/22/11

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,

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- 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 to:

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

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cc:

