

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-12210
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: December 14, 2011
County: Wayne County (35)

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 December 14, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (Department) included [REDACTED], Specialist.

ISSUE

Due to excess assets, did the Department properly deny the Claimant's application close Claimant's case for:

- | | |
|---|--|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input checked="" type="checkbox"/> Food Assistance Program? |

FINDINGS OF FACT

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

1. Claimant applied for benefits received benefits for:

- | | |
|---|--|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Medical Assistance (MA). | <input checked="" type="checkbox"/> Food Assistance Program. |

2. Due to excess assets, on 9/27/11, the Department denied Claimant's application. closed Claimant's case.

3. On 9/27/11, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On 10/24/11, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 (RTM). 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/>.

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.

It was not disputed that Claimant owned a second home. It was not disputed that the second home was not Claimant's homestead and would not be exempt from the asset calculation by virtue of being a homestead. It was not disputed that the SEV of the second home was \$94,000 (\$188,000 if multiplied by 2). It was not disputed that Claimant owed \$176,638.01 on a mortgage for the home.

For FAP benefits, DHS is to consider the equity value of real property. BEM 400 at 24. Equity value is the fair market value minus the amount legally owed in a written lien provision. *Id.* Liens must be filed with the register of deeds or other appropriate agency. *Id.*

DHS regulations list various methods to verify real property value. Listed examples include: deed, mortgage, purchase agreement or contract; state equalized value (SEV) on current property tax records multiplied by two; attorney or court records; county records or statement of real estate agent or financial institution.

DHS did not provide a specific method for how the equity value of the second home was calculated, but it is known that the SEV multiplied by two (\$188,000) exceeds the amount owed on the mortgage by more than the \$5,000 asset limit for FAP benefits. Thus, it appears that Claimant may have excess assets for FAP benefit eligibility.

Claimant contended that in addition to the mortgage, she owed an additional \$37,000 lien on the home. It was not disputed that the lien was not registered with the county's Register of Deeds. As such, the lien should not be factored into the equity value of the house.

Claimant also contended that the value of the house was much less than the doubled value of the SEV. Following the hearing, Claimant presented an appraisal from a certified real estate appraiser. The appraisal noted several factors which contributed into the home's value including: outdated windows, gravel driveway, location on a busy street and a need for a new roof. Based on a sales comparison approach, the house was given appraised for \$98,000, significantly less than the \$188,000 presumably relied on by DHS.

An appraisal is a personalized value which takes into account the most current sales and a house's specific characteristics. A value calculated by SEV is neither as current nor as specific as an appraisal. Based on the conflicting house values, the appraisal value is found to be a more reliable estimate of the home's true value.

Using a value of \$98,000 for Claimant's second home gives the home an equity value of \$0 after accounting for the \$176,638.01 mortgage. Thus, it is found that Claimant has \$0 countable assets from the second home and that DHS erred in terminating Claimant's FAP benefits on the basis of the home's value exceeding the asset limit for FAP benefits.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess assets, the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP MA FAP.

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, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's AMP FIP MA FAP decision is
 AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. reinstate Claimant's FAP benefits effective 10/2011;

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2. evaluate Claimant's FAP benefits effective 10/2011 based on a \$0 equity value for Claimant's second home; and
3. supplement Claimant for any FAP benefits not received as a result of the DHS error.



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

Date Signed: January 6, 2012

Date Mailed: January 6, 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.

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/ctl

cc: 
Wayne County DHS (35)/1834



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File

