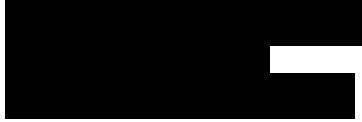


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2012-21153
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: January 19, 2012
County: Muskegon

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

In accordance with MCL 400.9, MCL 400.37, and 1999 AC, R 400.903, a hearing was held in this matter on January 19, 2012. Claimant personally appeared and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly denied Claimant's redetermination for the Food Assistance Program (FAP) based on excess assets.

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, including the testimony of witnesses, the Administrative Law Judge, finds as relevant fact:

1. Claimant received benefits for Food Assistance Program (FAP).
2. On December 15, 2011, the Department sent Claimant notice of the reduction.
3. Beginning January 1, 2012, the Department closed Claimant's FAP benefits due to excess assets.
4. On December 22, 2011, Claimant filed a hearing request, contesting the Department's closure of FAP benefits.

CONCLUSIONS OF LAW

The FAP [formerly known as the Food Stamp (FS) program] was 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 in

accordance with MCL 400.10, *et seq.*, and 1997 AACRS, R 400.3001 through R 400.3015. Agency policies pertaining to this program are found in the BAM, BEM, and RFT.

To determine FAP eligibility, the group's assets during the benefit month cannot exceed [REDACTED]. BEM 400. Assets mean cash, any other personal property and real property. At redetermination, Claimant listed cash in five different bank accounts, four vehicles and four pieces of real property.

As a result, Claimant was required to provide bank statements showing the balance in each account. Claimant submitted bank statements for each account except for what he titled as a business operating account at [REDACTED]. Claimant stated that he believed the [REDACTED] prevented him from providing the department with a copy of his bank statement from his business bank account. However, Claimant was unable to point to an exception in policy that supported his belief. Claimant did provide proof of his remaining bank accounts, which the department calculated showed a total balance of [REDACTED] for the benefit month. However, during the hearing, the department conceded they had miscalculated the amounts. A total of [REDACTED] was computed during the hearing, however a statement from [REDACTED] was not provided. Claimant testified the balance was just over [REDACTED] but could provide no independent proof at the time of the hearing.

At redetermination, Claimant also submitted a list of four vehicles. There is a [REDACTED] limit on countable vehicles owned by the FAP group. BEM 400. To determine the value of the vehicle, the department uses the [REDACTED] or [REDACTED] at [REDACTED] wholesale (trade-in) value. The department followed policy and found the four vehicles were valued at a total of [REDACTED]. Because the fair market value of the vehicles was less than [REDACTED], there was no excess to count toward the [REDACTED] asset limit.

Claimant also submitted a list of real property that he currently owned. The department is instructed to determine the fair market value of real property by using the deed, mortgage, purchase agreement or contract, State Equalized Value (SEV) on current property tax records multiplied by two, a statement of real estate agent or financial institution, an attorney or court records or county records. BEM 400.

In addition to his primary residence, which is exempt from the asset test, Claimant also owned his previous residence and two vacant lots. The SEV's for the two vacant lots totaled [REDACTED]. According to policy, this amount would be multiplied by two for a total of [REDACTED], far in excess of the [REDACTED] asset limit.

Claimant argued the department should have used the deeds to determine the fair market value of the property. However, Claimant admitted during the hearing that he failed to submit the deeds to the property at issue when he completed the redetermination. As a result, the department used the SEV for calculating the fair market value of each property, per policy.

Accordingly, the Department properly closed Claimant's benefits for FAP because he had assets in excess of \$5,000.00. However, as noted during the hearing, Claimant now has the ability to provide the department with copies of deeds for each property at issue. Therefore,

there is nothing to preclude Claimant from reapplying for FAP and submitting the deed to each property for the department's consideration in accord with BEM 400.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, and for the reasons stated on the record, the Administrative Law Judge finds that the Department did act properly.

Accordingly, the Department's decision is AFFIRMED.

It is SO ORDERED.

/s/
Vicki L. Armstrong
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/24/12

Date Mailed: 1/24/12

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 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 mailing 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

VLA/ds

■ [REDACTED]