

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20122339
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: November 9, 2011
County: Macomb (36)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 November 9, 2011, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's husband. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On October 1, 2011, the Department
 denied Claimant's application closed Claimant's case
due to excess assets.
3. Claimant currently rented an apartment in Michigan, but owned a homestead in Florida.
4. On September 20, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
5. On September 24, 2011, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

BEM 400, p. 4 sets the asset limit for eligibility for FAP at \$5,000.00

BEM 400, p.24 defines "homestead" as "where a person lives (unless absent from homestead, see below) that he owns, is buying or holds through a life estate or life lease." The value of the real property is the equity value. BEM 400, p. 23.

To determine the fair market value of real property use:

Deed, mortgage, purchase agreement or contract.

- State Equalized Value (SEV) on current property tax records multiplied by two.
- Statement of real estate agent or financial institution.
- Attorney or court records.
- County records.

BEM 400, p. 23.

In the present case, the Department relied on a 2007 Notice of Ad Valorem Assessments and Real Estate Tax Notice from [REDACTED], to determine the fair market value of Claimant's real estate in [REDACTED]. I am not convinced that the information regarding the real estate in 2007 accurately reflects the fair market value of the real estate in 2011. Therefore, I am not convinced that the Department was correct in its decision to close Claimant's FAP case due to excess assets.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, the Administrative Law Judge concludes that 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 FAP MA SDA CDC.

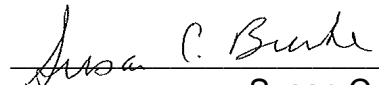
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated within the record, finds that the Department
 did act properly. did not act properly.

Accordingly, it is ORDERED that the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated within the record.

It is further ORDERED that the Department shall:

- 1.) Initiate reinstatement of Claimant's FAP case, effective October 1, 2011, if Claimant is otherwise eligible.
- 2.) Initiate FAP supplements, effective October 1, 2011, if Claimant is otherwise eligible for FAP.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/16/11

Date Mailed: 11/16/11

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,
 - 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

SCB/hw

cc:

