

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

IN THE MATTER OF:



Reg. No: 201226589
Issue No: 3021
Case No: [REDACTED]
Hearing Date: February 16, 2012
SSPE-WEST

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 7, 2012. After due notice, a telephone hearing was held on Thursday, February 16, 2012.

ISSUE

Whether the Department of Human Services (Department) properly determined whether the Claimant met the assets test for the Food Assistance Program (FAP)?

FINDINGS OF FACT

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

1. The Claimant submitted an application for Food Assistance Program (FAP) benefits on December 11, 2011.
2. The Claimant owns real property with a State Equalized Value of \$15,200.
3. On January 4, 2012, the Department denied the Claimant's application for Food Assistance Program (FAP) benefits due to excess assets.
4. The Department received the Claimant's request for a hearing on January 7, 2012, protesting the denial of her application for benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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). The Department of Human Services (DHS or 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

In order to be eligible to receive benefits, countable assets cannot exceed the applicable asset limit. Not all assets are counted. Some assets are counted for one program, but not for another program. Some programs do not count assets. BEM 400.

In this case, the Claimant submitted an application to the Food Assistance Program (FAP), which include countable assets in its eligibility determination procedure.

Countable assets include real property but excludes a person's homestead. A homestead is where a person lives that he owns, is buying, or holds through a life estate or life lease. It includes the home, all adjoining land and any other buildings on the land. BEM 400.

In this case, the Claimant owns a second home and does not live or intend to live at this home. Therefore, the second home cannot be excluded as a homestead.

The Department will determine the fair market value of real property and mobile homes using:

- 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.

For the Food Assistance Program (FAP), the value of real property is the equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision. Liens must be filed with the register of deeds or other appropriate agency.

In this case, the Department determined the value of the second home by using the State Equalized Value. This is a permissible method of determining the countable value.

The Claimant argued that this method of determine the countable asset value is not an accurate method of determining the value of the real property that is available to them. The Claimant argued that the Department should be required to use the equity value of the real property towards his assets test.

This Administrative Law Judge finds that the Department should have taken steps to determine the equity value of the Claimant's real property when determining her

eligibility for the Food Assistance Program (FAP) program. Therefore, the Department's eligibility determination is reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department failed to properly determine the value of the Claimant's assets for the purposes of determining his eligibility for the Food Assistance Program (FAP).

Accordingly, the Department's Food Assistance Program (FAP) eligibility determination is **REVERSED**. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of the application date of December 11, 2011.
2. Allow the Claimant the opportunity to clarify the equitable value of the real property that she owns.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 22, 2012

Date Mailed: February 22, 2012

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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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.

KS/tb

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