

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201233794
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 14, 2012
County: Wayne DHS (76)

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 March 14, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Manager.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

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

FINDINGS OF FACT

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

1. Claimant applied for was receiving: FIP FAP MA SDA CDC.
2. Claimant was was not provided with a Verification Checklist (DHS-3503).
3. Claimant was required to submit requested verification by 1/23/12 (see Exhibit 1).

4. On 2/9/12, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefitsfor failure to submit verification in a timely manner.

5. On 2/9/12, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

6. On 2/15/12, Claimant filed a hearing request, protesting the
 - denial. closure. reduction.

CONCLUSIONS OF LAW

Department policies are found 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.

Claimant requested a hearing to dispute a FAP benefit termination effective 3/2012. DHS terminated Claimant's ongoing benefit eligibility due to an alleged failure by Claimant to verify the value of real property. DHS contended the alleged failure was relevant to the issue of asset eligibility for FAP benefits.

One of the properties at issue was one which Claimant received \$375 in rent. In the asset determination, DHS is to exclude rental and vacation properties such as time-share properties owned by the group if they are renting it to produce income. BEM 400 at 28. DHS has no reason to request verification of rental property value if the property is not a countable asset. Accordingly, it is found that DHS may not terminate Claimant's FAP benefit eligibility due to an alleged failure by Claimant to verify the rental property's value.

A second property at issue was one which Claimant was selling via land contract. Claimant stated that he receives \$400/month for the property. The land itself would again be excluded based on income-producing property policy. DHS contended that the land contract is a promissory note which may be counted as an asset. DHS regulations state the following of promissory notes:

A note is a written promise to pay a certain sum of money to another person at a specified time. The note may call for installment payments over a period of time (installment note) or a single payment on a specified date. The most common type of note involves the sale of real property and is called a land contract or a mortgage. The person who sold the property is holder of the note. The note is the holder's asset. BAM 400 at 31.

The above stated policy is broken into subsections. For the entire policy section and each subsection, the only applicable program is SSI Related MA (i.e. medical benefits). The failure by DHS to identify FAP as a program affected by promissory notes is definitive evidence that DHS does not factor promissory notes into an asset determination. Such an interpretation is reasonable because there is less of a need to factor a note value when the income that the note generates is factored. It is found that DHS does not count promissory notes into a FAP benefit asset determination.

Based on the presented evidence, it is found that DHS had no basis to verify the property value of Claimant's rental property or property sold by land contract as both are excludable assets. Accordingly, DHS improperly terminated Claimant's FAP benefit eligibility effective 3/2012.

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 the Department

properly improperly

- closed Claimant's case.
- denied Claimant's application.
- reduced Claimant's benefits.

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 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 benefit eligibility effective 3/2012;
2. determine Claimant's ongoing FAP benefit eligibility subject to the findings that Claimant's rental property and property sold by land contract are not countable assets and that the promissory note value of the remaining land contract payments is not a countable asset; and

3. supplement Claimant for any benefits not received as a result of the improper benefit termination.



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

Date Signed: March 22, 2012

Date Mailed: March 22, 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. (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 to:

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

CG/hw

201233794/CG

cc:

