

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201240586
Issue No: 3021
Case No: [REDACTED]
Hearing Date: April 18, 2012
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on April 18, 2012. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed the claimant's Food Assistance Program (FAP) case due to excess assets?

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 was receiving FAP benefits prior to the date of negative action.
2. Upon investigation by the department, it was determined that the claimant owned property in Calhoun County with a State Equalized Value (SEV) of [REDACTED]. (Department Exhibit 7).
3. It was also determined that the claimant's name was listed as owner of the titles to 6 vehicles. (Department Exhibits 15-18).
4. Based on Kelly Bluebook value and NADA values, the department determined that the claimant had vehicles with a total value of [REDACTED]. (Department Exhibits 8-13).
5. Based on the department's understanding of the value of the claimant's property and the values of the claimant's vehicles, the department

determined that the claimant's assets exceeded the [REDACTED] limit for FAP benefits. (Department Exhibit 19).

6. On March 7, 2012, the department sent the claimant a notice of case action stating that his FAP benefits would be closing as of April 1, 2012 due to his exceeding the allowable asset limit for the FAP program.
7. The claimant filed a request for hearing on March 19, 2012, protesting the closure of his FAP case.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 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) and the Bridges Reference Manual (BRM).

In relation to FAP eligibility, department policy provides that assets must be examined in determining eligibility. For FAP purposes, the group's assets during the benefit month cannot exceed \$5,000.00. BEM 400. Policy defines assets as follows:

Assets Defined

Assets means cash, any other personal property and real property.

Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property.

Personal property is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles). BEM 400.

In order for an asset to be countable, it must be available. In order for an asset to be available, someone in the asset group must have the legal right to use or dispose of the asset. BEM 400. Assets are presumed to be available unless evidence is provided to show that the asset is not available. BEM 400.

In relation to determining asset value for FAP eligibility purposes, policy directs the department to determine the fair market value. The fair market value may be determined by multiplying the SEV by 2. BEM 400. Then, the department is to determine the equity value by subtracting the amount legally owed on the property from the fair market value. BEM 400.

For vehicles, the department is to exclude the highest valued vehicle in determining the value of the combined assets. Then the department is to subtract [REDACTED] (the total allowable amount) from the combined value of the vehicles. The remaining amount, if any, is applied to the claimant's asset value. BEM 400. Policy further directs that Kelly Blue Book value or NADA value are to be used in determining vehicle value absent a verification from a reliable source if the claimant contends that the vehicle's value is less than fair market value. BEM 400.

In the case at hand, the department representative testified that the claimant was sent a verification checklist requesting verification of vehicle titles, bank accounts, and the mortgage or land contract for the claimant's property. The claimant testified that proceedings have been brought to forfeit the land contract that he was buying the property in question on. However, the department was not provided with verification of the lawsuit, or the land contract to show how much was owed on the property. Therefore absent this verification, the department was required to rely on the information that it had on hand at the time; that being the SEV from the county assessor's office and nothing to show the amount of the lien by the land contract holder.

Additionally, the claimant did not provide any verification of the values of the vehicles in question prior to the department issuing the notice of case action. The claimant testified that the vehicles in question were not worth anything close to the value assigned by the department, as there were only two vehicles that are actually running. The claimant testified that the other vehicles are essentially junk and that their value is next to nothing. However, again the department was not provided with acceptable verification of the value of these vehicles and therefore could only rely on the information available at the time the negative action was taken.

Accordingly, the Administrative Law Judge finds that the department took the proper action in accordance with policy based on the information that was available at the time. In turn, the department properly determined that the claimant's assets exceeded the allowable limit based on the values that were used as a result of the information present at the time of calculation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed the claimant's FAP case for exceeding the allowable asset limit.

Accordingly, the department's actions are **AFFIRMED**. It is SO ORDERED.



Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 27, 2012

Date Mailed: April 27, 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.

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.

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