

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201271151
Issue No.: 2021, 3019
Case No.: [REDACTED]
Hearing Date: September 26, 2012
County: Crawford County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 September 26, 2012 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED]

ISSUE

Due to excess assets, did the Department properly close the Claimant's case for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

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

1. On February 1, 1999 the Claimant was approved for MA benefits.
2. On June 28, 2012, the Claimant applied for and was approved for FAP benefits.
3. Between June 28, 2012 and August 31, 2012, the Claimant applied for State Emergency Relief (SER) benefits.
4. Between June 28, 2012 and August 31, 2012, the Department discovered the Claimant owed taxes on two separate parcels of property of which the Claimant never disclosed to the Department as owning.

5. On August 8, 2012, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's MA and FAP benefits were set to close August 31, 2012 due to excess assets (the value of the second property/home exceeded the asset limit for each of the respective programs).
6. On August 14, 2012, the Claimant requested a hearing to dispute the MA and FAP closures.

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. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The 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 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).

Assets must be considered in determining eligibility for FIP, SDA, RAPC, LIF, G2U, G2C, SSI-related MA categories, AMP and FAP. (BEM 400).

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).

Determine asset eligibility prospectively using the asset group's assets from the benefit month. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. Countable assets cannot exceed the applicable asset limit. The FAP asset limit is \$5,000. The FIP asset limit is \$3,000. The LIF asset limit is \$3,000. The G2U and G2C asset limit is \$3,000. The Medicare Savings Programs and QDWI asset limit is \$10,410 for an asset group of two. All other SSI-related MA categories have an asset limit of \$3,000 for an asset group of two. (BEM 400).

A homestead is where a person lives (unless Absent from Homestead, see below) 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. Adjoining land means land which is

not completely separated from the home by land owned by someone else. Adjoining land may be separated by rivers, easements and public rights-of-way (example: utility lines and roads). (BEM 400).

Exclude the homestead the owner formerly lived in if the owner intends to return and is absent for one of the following reasons:

- Vocational rehabilitation training.
- Inability to live at home due to a verified health condition.
- Migratory farm work.
- Care in a hospital.
- Temporary absence due to employment, training for future employment, illness, or a casualty (example: fire) or natural disaster.

In the present case, the Department has shown through Crawford county delinquent tax notices that more likely than not the Claimant owns both parcels of property in question. And because only one of the properties can claim the homestead exclusion, the other property must be counted as an asset. Because both properties in and of themselves exceed the asset limit for each of the respective programs, the Department's action to close the Claimant's FAP and MA cases was appropriate.

Accordingly, I **affirm** the Department's actions in this matter.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law find that the Department acted in accordance with the applicable laws and policies in closing the Claimant's FAP and MA cases.

Accordingly, the Department's FAP decision is **AFFIRMED**.

/s/

Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: October 2, 2012

Date Mailed: October 2, 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.

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

CAA/las

cc:

