

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201342854  
Issue No.: 1021, 2001, 3021, 5032  
Case No.: [REDACTED]  
Hearing Date: May 23, 2013  
County: Saginaw

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**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 May 23, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] (Claimant) and [REDACTED] [REDACTED] (Claimant's friend). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

**ISSUE**

Did the Department properly deny Claimant's applications for Food Assistance Program (FAP), Family Independence Program (FIP), Medical Assistance (MA) and State Emergency Relief (SER) assistance?

**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 FAP, MA, FIP and SER on March 12, 2013.
2. Claimant, at the time of application, was married but separated from her husband.
3. Claimant's former residence remained in her name although she was not in possession of her property.
4. The SEV of the property in question was \$48,400.00 at the relevant time.

5. On April 2, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605), which denied her FIP (lack of eligibility), MA (AMP closed) and FAP (excess assets).
6. Claimant requested a hearing on April 17, 2013 regarding FAP, MA, FIP and SER.

### 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

In order to be eligible for FIP, an applicant or group member must be a dependent child, a caretaker/relative of a child, pregnant, aged or disabled, a refugee or have a qualifying relationship to another household member.

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 Mich Admin Code, R 400.3001 through R 400.3015.

Assets must be considered in determining eligibility for FAP. BEM 400. Assets are defined as cash, any other personal property and real property. BEM 400. Real property is land and objects affixed to the land such as buildings, trees and fences. BEM 400.

Countable assets cannot exceed the applicable asset limit. BEM 400. An asset is countable if it meets the availability tests and is **not** excluded. BEM 400. An asset must be available to be countable. BEM 400. "Available" means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400.

For FAP, real property, mobile homes, life estates and life leases are all countable assets. BEM 400. To determine the fair market value of real property and mobile homes the Department will use a deed, mortgage, purchase agreement or contract or the State Equalized Value (SEV) on current property tax records multiplied by two. BEM 400.

For FAP, a homestead is where a person lives (unless Absent from Homestead see below) that they own, 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.

The Department will 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. BEM 400.

The FAP asset test is \$5,000 or less. BEM 400.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Applications received during the freeze on AMP enrollments must be registered and denied using “applicant did not meet other eligibility requirements” as the denial reason. BEM 640. Applicants must be informed that the reason for denial is an enrollment freeze. BEM 640.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by, 1993 AACS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM). The SER program is designed to prevent serious harm to individuals and families. ERM 101. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101.

Here, Claimant requested a hearing to challenge the Department’s decisions regarding her FAP, FIP, MA/AMP and SER applications. The Department indicated that Claimant’s FAP was denied due to excess assets. Claimant, during the hearing, testified that she and her husband were legally separated, but not divorced, at the time of application. The SEV of the house was \$48,400.00. Claimant also testified that she had no intentions of returning to the house and that she and her husband were in the process of divorce. Here, Claimant’s house is a countable asset and the homestead

exemption does not apply. The value of the home easily exceeds the \$5,000.00 asset limit under BEM 400.

With regard to FIP, Claimant does not dispute that she is not eligible because she is not “a dependent child, a caretaker/relative of a child, not pregnant, not aged or disabled, not a refugee or does not have a qualifying relationship to other household members.” She was not eligible for FIP at the time of application.

With regard to MA/AMP, at the time Claimant applied the AMP was on a freeze status. When the AMP enrollment opens, Claimant may consider replying.

Claimant also clearly requested a hearing regarding SER. In the instant matter, the Department has failed to provide any documentation in the hearing packet relating to Claimant’s SER request for hearing. The only document contained in the hearing summary that shed any light on the SER issue was the hearing summary. However, there were no other documents or records included in the hearing packet. Without additional documentation in the hearing packet, the Administrative Law Judge is unable to make a reasoned, informed decision regarding the issue at hand.

Accordingly, this Administrative Law Judge finds that, with regard to the SER issue, the Department has failed to carry its burden of proof and did not provide information necessary to enable this ALJ to determine whether the Department followed policy as required under BAM 600.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep’t of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep’t of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department acted properly with regard to Claimant’s application for FAP, FIP, and MA. However, the Department did not act properly with regard to SER.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department is **AFFIRMED-IN-PART** and **REVERSED-IN-PART**. The Department did act properly when it denied Claimant’s application for FAP, FIP and

MA/AMP, but the Department did not act properly when it failed to include any documentation in the hearing packet concerning Claimant's SER request for hearing.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Claimant's application for SER.
2. To extent required by policy, provide Claimant with retroactive and/or supplemental benefits.

IT IS SO ORDERED.

/s/  
C. Adam Purnell  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 24, 2013

Date Mailed: May 28, 2013

**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.

201342854/CAP

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

CAP/aca

cc:

