

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53396
Issue No.: 2021, 3019
Case No.: [REDACTED]
Hearing Date: July 18, 2013
County: Gratiot 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 July 18, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Due to excess assets, did the Department properly deny the Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input checked="" type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | |

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. Claimant applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | |

2. As of December 28, 2009, the Claimant owned a home at [REDACTED]

3. On or around October 30, 2012, the Claimant moved to a home she purchased at [REDACTED]. As of October 30, 2012, the Claimant owned the [REDACTED] home outright.

4. On April 8, 2013, the Claimant applied for MA. On the application, the Claimant indicated she still owned the property on [REDACTED]
5. On May 7, 2013, the Claimant spoke with a Department worker regarding the properties. The Claimant told the Department she was no longer trying to sell the [REDACTED] property and that her daughter was living in the home and not paying rent.
6. On May 31, 2013, the Department sent the Claimant a notice of case action. The notice indicated the Claimant was being denied for MA for the MA-LIF and AMP programs due to excess assets. The notice also stated the Claimant's FAP case was being closed due to excess assets.
7. As of May 31, 2013, the Claimant owned three different properties and was living in only one of them.
8. On June 10, 2013, the Claimant requested a hearing regarding the MA denial and FAP closure.

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, SD A, 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** 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 Claimant can only exclude one of the homes from the asset test as I cannot find any evidence that the other homes are up for sale.

Although the Claimant argued that the home is up for sale and has always been up for sale, the Claimant was unable to provide records to substantiate her argument. Furthermore, the Claimant indicated her daughter was staying in the home because she had nowhere else to go and would be homeless otherwise. This begs the question, where would the daughter go if the home was sold?

Because the homes cannot be excluded and the fact the one home is owned outright with no liens or note, the value must be included in the asset test.

Since the value of the home exceeded the FAP and MA asset limits, the Department properly terminated the Claimant's FAP case and denied the Claimant for the respective MA programs.

Accordingly, I affirm the Department's actions.

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 case and denying the Claimant's application for MA benefits.

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



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

Date Signed: July 22, 2013

Date Mailed: July 22, 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.

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:

