

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201355887
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: August 6, 2013
County: Lapeer

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on August 6, 2013. Claimant and her spouse, [REDACTED], appeared and testified. The Department was represented by [REDACTED]. At the beginning of this hearing Claimant testified that there was no Child Development and Care (CDC) issue which needed to be resolved. The CDC portion of this hearing is dismissed.

ISSUE

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) 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) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) On December 17, 2012, Claimant's brother and personal representative of their father's estate, quit claimed the deed of the estates property at [REDACTED] to Claimant.
- (3) On June 20, 2013, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) was closed effective June 1, 2013, due to excess assets.
- (4) On June 25, 2013, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

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 Program Reference Manual (PRM).

Department of Human Services Bridges Eligibility Manual (BEM) 400 (2013) page 11 states:

FAP Non-Salable Assets

FAP

Do **not** count **real property** that the FAP group is making a **good-faith effort** to sell. All of the following must be met for the real property to be excluded:

- No reasonable purchase offer has been made.
- For active cases, the property is continuously up for sale by a real estate company, by owner, etc.).
- An actual attempt has been made to sell it at a price not higher than the fair market value.

Testimony provided at this hearing combined with Exhibit 3 pages 1-5 in evidence shows that the property: consists of two adjoining lots whose 2012 State Equalized Value (SEV) showed a total assessed value of [REDACTED]; has been for sale since August 27, 2012; and the asking price has gone from [REDACTED] down to [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly close Claimant's Food Assistance Program (FAP) due to excess assets.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimant's Food Assistance Program (FAP) be reinstated and Claimant's eligibility be re-determined to include obtaining all required information necessary to evaluate the property's non-salable status under BEM 400.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 08/09/2013

Date Mailed: 08/12/2013

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 receipt 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

GFH/sw

cc:

