

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-44548
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 4, 2013
County: Oakland-03 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 June 4, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Due to excess assets, did the Department properly deny the Claimant's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

I find as material fact, based on the competent, material, and substantial evidence on the whole record, including the testimony at the hearing:

1. On December 20, 2012, the Claimant applied for FAP benefits. At the time of application, the Claimant and her family leased two vehicles, owned a boat valued at \$ [REDACTED] and a motorcycle valued at \$ [REDACTED]. The boat had an outstanding note of approximately \$ [REDACTED].
2. On March 22, 2013, the Department denied the Claimant's application for FAP benefits due to the group exceeding the asset limit for FAP benefits.
3. On April 25, 2013, the Claimant requested a hearing to dispute the FAP application denial.

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). **Vehicles** are devices used to transport people or goods. Vehicles include passenger cars, trucks, motorcycles, motorbikes, trailers, campers, motor homes, **boats** and all-terrain vehicles. (BEM 400).

For SSI-Related MA, vehicle value is measured by its equity value (fair market value minus the amount legally owed in a written lien provision). The liens must be on the record with the Secretary of State or other appropriate agency. This applies to SSI-Related MA only. (BEM 400).

FAP related vehicle value is measured by adding together the fair market value of all vehicles owned by the FAP group and subtracting \$15,000 to determine the countable value. The Department is to exclude one vehicle with the highest fair market value per household. This exclusion occurs after all other vehicle exclusions are applied. (BEM 400).

The Department excludes vehicles with a fair market value of \$1,500 or less if currently registered by the state in addition to vehicles which are leased because the individual has no equity value, cannot sell the vehicle and generally does not have title to the vehicle. (BEM 400).

In this case, the Claimant has only one vehicle (boat). The motorcycle and the leased cars are excluded and therefore cannot be counted as assets. Additionally, the group is allowed one vehicle to be excluded. Because the group only has one vehicle (boat), this vehicle should also be excluded.

Because the Department included the one vehicle as an asset, the Department did not properly adhere to the applicable policies on the issue and therefore improperly determined the Claimant's eligibility for FAP benefits.

Accordingly, I find evidence to reverse the Department's actions in this matter.

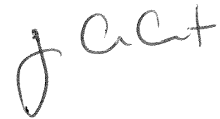
DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law find that the Department did not act in accordance with the applicable laws and policies in denying the Claimant's FAP application.

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

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

1. Initiate a redetermination as to the Claimant's eligibility for FAP benefits beginning December 20, 2012 and issue retroactive benefits if otherwise qualified and eligible.



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

Date Signed: June 5, 2013

Date Mailed: June 5, 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.

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:

