

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

IN THE MATTER OF:



Reg. No.: 201422106
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: February 10, 2014
County: SSPC-EAST

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits for excess assets?

FINDINGS OF FACT

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

1. On December 5, 2013, Claimant applied for FAP benefits.
2. On December 27, 2013, the Department sent Claimant a Notice of Case Action denying the application on the basis that the value of Claimant's assets exceeded the asset limit for FAP eligibility.
3. On January 13, 2014, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, assets must be considered in determining eligibility for FAP. BEM 400 (December 2013), p. 1; BEM 213 (July 2013), p. 1. Asset eligibility exists when the group's countable assets are less than, or equal to, the FAP asset limit of \$5,000. BEM 400, pp. 3, 5.

Assets include real property, which consists of land and objects affixed to the land such as buildings, trees and fences. BEM 400, pp 1, 29. An individual's homestead, which is defined as the place the individual owns and lives in, is excluded from the FAP asset test. BEM 400, pp. 31-32. In this case, Claimant owned real property on [REDACTED] in Detroit but admitted that she did not live there. Because the [REDACTED] home was not Claimant's homestead, the Department properly considered the value of the home in determining Claimant's FAP eligibility.

To determine the value of real property for FAP asset eligibility, the Department considers the equity value of the property. BEM 400, p. 30. The quality value is the fair market value less the amount legally owed in a written lien provision. BEM 400, p. 30. The fair market value is based on (i) the deed, mortgage, purchase agreement or contract, (ii) state equalized value (SEV) on current property tax records multiplied by two, (iii) statement of real estate agent or financial institution, (iv) attorney or court records, or (v) county records. BEM 400 (December 2013), pp. 30, 59.

In this case, Claimant acknowledged that there were no liens on the property. The Department testified that it relied on the 2013 City of Detroit property tax bill for the property to conclude that the fair market value of the [REDACTED] home was \$11,019. The tax bill shows that the property has a taxable value and SEV of \$11,019. However, Claimant argued that the property was worth considerably less, testifying that she purchased the home at a tax foreclosure sale for \$1,100. In support of her position, she referenced the quitclaim deed which shows that she purchased the property in November 2012 "for the full consideration of \$1,100."

When information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory, the Department must request verification from the client. BAM 130 (January 2013), p. 1. Furthermore, before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy. BAM 130, p. 7.

Under Department policy, the Department could rely on the SEV or the value on the deed to establish the fair market value of the property. See BEM 400, p. 30. Because there was an inconsistency in the value of the home but the Department failed to ask Claimant for further information to resolve the discrepancy, the Department did not act in accordance with Department policy.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's FAP application.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and reprocess Claimant's December 5, 2013 FAP application, allowing Claimant the opportunity to establish the value of the real property at issue;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from December 5, 2013, ongoing; and
3. Notify Claimant in writing of its decision.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 14, 2014

Date Mailed: February 14, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/tif

cc:

