

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.:  
Issue No(s):  
Case No.:  
Hearing Date:  
County:

[REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

**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, an in person hearing was held on April 15, 2014, from Mount Pleasant, Michigan. Participants on behalf of Claimant included Claimant and witnesses [REDACTED] and [REDACTED] Claimant's [REDACTED] [REDACTED] from [REDACTED] of [REDACTED] also appeared. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED] [REDACTED] [REDACTED] also appeared for the Department by telephone.

**ISSUE**

Did the Department properly close Claimant's FAP benefits and MA Ad-Care benefits due to 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. Claimant submitted redetermination paper work on [REDACTED] [REDACTED] [REDACTED]
2. The Department determined that Claimant had countable assets in the form of real estate and a land contract that put her over the asset limits for Medicaid and Food Assistance.
3. Claimant is a joint owner with full rights of survivorship of properties located at [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED] [REDACTED] [REDACTED] also known as [REDACTED] [REDACTED] [REDACTED]

4. Claimant's FAP benefits closed effective [REDACTED] [REDACTED] [REDACTED] and her Medicaid coverage was converted from MA-Ad-Care to Plan First.
5. Claimant requested hearing on [REDACTED] [REDACTED] [REDACTED] disputing the closure of FAP benefits and the change in her Medicaid benefits.
6. Lot 150 is owned by [REDACTED] [REDACTED] solely.
7. [REDACTED] [REDACTED] [REDACTED] [REDACTED] is Claimant's primary residence and that property is exempt from the asset determination.

### **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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

#### **Real Property and Mobile Home Value FIP, SDA, RCA, SSI-Related MA Only and FAP**

To determine the fair market value of real property and mobile homes use:  
Deed, mortgage, purchase agreement or contract.

State Equalized Value (SEV) on current property tax records multiplied by two.

Statement of real estate agent or financial institution.

Attorney or court records.

County records.

#### **FIP, SDA, RCA**

Use the fair market value.

#### **SSI-Related MA Only and FAP**

The value is the equity value. Equity value is the fair market value minus the amount legally owed in a written lien provision.

Liens must be filed with the register of deeds or other appropriate agency.

Deeds are considered legal if they are signed and notarized. It does not have to be registered with the registrar of deeds to be a legal document. BEM 400

Additionally, the two assets in dispute are the real property located at [REDACTED] [REDACTED] [REDACTED] that was being sold on a long contract to [REDACTED] and [REDACTED] [REDACTED] (it appears that the land contract was forfeited and the property reverted back to the [REDACTED] free and clear) and the real property located at [REDACTED] [REDACTED] [REDACTED] # [REDACTED] [REDACTED] that is a lot with a garage on it. These properties are held jointly by Claimant and her parents, [REDACTED] and [REDACTED] [REDACTED] with full rights of survivorship. It appears that the properties were titled this way with assistance from [REDACTED] and [REDACTED] former attorney and there was some testimony regarding the motivations for titling the properties this way and whether Claimant contributed to the properties in any way. Regardless of that, Claimant remains a joint owner and Department policy dictates how the value of her ownership interest should be calculated. The Department valued the property based on double the tax assessed value, pursuant to Department policy. BEM 400

Claimant's attorney argued that those values were incorrect and presented photographs and testimony regarding the poor condition of the properties and argued that the true values would be substantially less. This Administrative Law Judge does not have the authority or expertise to assess the value of real estate and Department policy does not allow for such an assessment. Absent other evidence allowed for in BEM 400, the State equalized value multiplied by 2 is the only valid measure of value presented and must be accepted. Claimant's also argued that the properties may be inaccessible and unavailable to Claimant based on the ownership structure. No evidence was presented that the other joint owners refusal to sell, in fact there was testimony that the intention was to sell the properties. There was no testimony or evidence presented that the properties are unsalable.

Claimant has a one-third interest in the properties located at [REDACTED] [REDACTED] [REDACTED] & [REDACTED] [REDACTED] [REDACTED] # [REDACTED] [REDACTED]. The value of those properties based on double the state equalized values are \$ [REDACTED] and \$ [REDACTED]. One-third of those values is \$ [REDACTED]. This amount is well over the asset limits for the Food Assistance Program and the Medicaid program, therefore the Department's closure of those programs due to excess assets was proper and correct.

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

acted in accordance with Department policy when it closed Claimant's FAP benefits and MA-Adcare benefits due to excess assets.

**DECISION AND ORDER**

Accordingly, the Department's decision is

AFFIRMED.



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**Aaron McClintic**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 25, 2014

Date Mailed: April 25, 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

2014-26706/ATM

P.O. Box 30639  
Lansing, Michigan 48909-07322

ATM/nr

cc:

