

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-30985
Issue No(s): 2001, 3001
Case No.: [REDACTED]
Hearing Date: April 2, 2014
County: Cass

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 April 2, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] and Assistance Payments Supervisor [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) and Medicaid (MA) benefits?

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 applied for FAP and MA on December 18, 2013.
2. Claimant is 59 years old.
3. Claimant owns a life estate in several contiguous parcels of property, some of which is leased as farm land, some of which includes a home where her son lives, some of which is unused, and all of which her daughter has the remainder interest in. (Exhibit 2.)
4. Claimant has been receiving the lease payments from the tillable farmland.
5. The property in question has been in Claimant's family for more than 150 years and is considered a Sesquicentennial Farm by the State of Michigan.
6. The Tax ID numbers, the State Equalized Value (SEV), and the Presumed Cash Value of the parcels are:

Tax ID	SEV	Cash Value	Homestead Claimed
[REDACTED]	\$0	\$0	No
[REDACTED]	\$ [REDACTED]	\$ [REDACTED]	Yes
[REDACTED]	\$ [REDACTED]	\$ [REDACTED]	Yes
[REDACTED]	\$ [REDACTED]	\$ [REDACTED]	Yes
[REDACTED]	\$ [REDACTED]	\$ [REDACTED]	Yes
[REDACTED]	\$0	\$0	No
Total	\$ [REDACTED]	\$ [REDACTED]	

7. On December 18, 2013 the Department mailed a Notice of Case Action (NCA) informing Claimant that her Medicare Savings Program (MSP) and her FAP application was closed because her countable assets were higher than allowed for the program. (Exhibit 1 Pages 25-31.)
8. Claimant requested a hearing on March 5, 2014.

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 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.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

BEM 400 (2/1/14) details the asset limits for various benefit programs. The asset limit for FAP is \$5,000. *Id* at 5. The asset limit for an asset group of one in the MSP is \$7,080. *Id* at 7. Countable assets cannot exceed the asset limit. *Id* at 1.

BEM 400 at page 1, "Assets mean cash, any other personal property and real property." At page 8, "An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset."

When considering jointly owned assets for FAP eligibility, BEM 400 at 10 states:

"An asset is unavailable if an owner **cannot** sell or spend his share of an asset:
"Without another owner's consent, and
"The other owner is not in the asset group, and
"The other owner refuses consent." (Emphasis in original.)

Claimant testified that she owns life estate in the property, and her daughter is the remainderman who will own the property after her death. Exhibit II of BEM 400 is a table to be used when a life estate is owned by an applicant. Claimant is age 59, and her factor is 0.75675. BEM 400 at 31 explains how a life estate is valued in a budget.

"Use the life estate factors in Exhibit II to compute the value of a life estate or life lease. Choose the life estate factor that corresponds to the person's age. Multiply the fair market value of the actual property by the appropriate life estate factor. The result is the value of the life estate or life lease."

The presumed value of the property is \$ [REDACTED]. When that is multiplied by the factor of 0.75675, the value of Claimant's life estate is \$ [REDACTED]. The asset limit for FAP is \$5,000. BEM 400 at 5. The limit for a group of one in the MSP is \$7,080. The limit for SSI-related MA is \$2,000 for a group of one. BEM 400 at 7. Claimant's assets exceed the limits for FAP, MA, and the MSP.

As much as the Claimant might wish to keep the farm in the family, the Department has established policies for valuing real estate in which an applicant holds a life estate. That value must be considered by the Department. The entire value is not attributable to her as an asset, but it is an asset and even with the factor she is beyond the limits of eligibility.

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 denied Claimant's application for FAP and MA.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 3, 2014

Date Mailed: April 3, 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.

2014-30985/DTJ

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

DTJ/las

cc:

