

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

IN THE MATTER OF:



Reg. No.: 2014-32714
Issue No(s): 3001
Case No.:
Hearing Date: April 16, 2014
County: SSPC - East

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on April 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Assistance Payment Worker.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that the value of his assets exceeded the limit?

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 February 28, 2014, Claimant submitted an application for FAP benefits and was approved for expedited FAP benefits through March 31, 2014. (Exhibit 1, pp. 6-11)
2. On February 28, 2014, the Department sent Claimant a Verification Checklist requesting that he submit verification of his assets, checking account and mortgage or home/building by March 10, 2014. (Exhibit 1, pp.12-18)
3. On March 11, 2014, the Department sent Claimant a Notice of Case Action informing him that his FAP case would be closing effective April 1, 2014, on the basis that the value of his assets exceeded the limit. (Exhibit 1, pp. 26-31)

4. On March 21, 2014, Claimant submitted a hearing request 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 (February 2014), p. 1. Assets include cash, personal property and real property. BEM 400, p.1. 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. BEM 400, pp. 8- 9. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For FAP, the asset limit is \$5,000. BEM 400, p.5.

Real property is land and objects affixed to the land such as buildings, trees and fences. BEM 400, p.1. To determine the fair market value of the real property, the Department will use a deed, mortgage, purchase agreement or contact, state equalized value on current property tax records multiplied by two, statement of real estate agent or financial institution, attorney, court or county records. BEM 400, p. 29. For FAP purposes, 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. BEM 400, p.29.

In this case, the Department testified that Claimant was the owner of a home in [REDACTED] that he was not living in. The Department stated that in response to the verification checklist, Claimant submitted a mortgage note for the property from June 12, 1989, in the amount of \$48,000. (Exhibit 1, pp.21-22). The Department testified that because this amount was in excess of the \$5, 000 FAP asset limit, it sent Claimant a Notice of Case Action informing him that his FAP case would be closed effective April 1, 2014. (Exhibit 1, pp. 26-31).

At the hearing, Claimant confirmed that he owns a home in [REDACTED] and that he submitted the mortgage note to the Department. Claimant testified that the home is

currently in foreclosure and that he has not made payments on it since January 2013. Claimant stated that there is an IRS Tax Lien on the property in an amount around \$29,000 and a [REDACTED] on the property in an amount around \$18,000. Claimant further stated that he informed his case worker of this information during his FAP initial interview.

While the mortgage note can be used to determine the fair market value of the home and its equity value, the Department was incorrect in its determination that because the amount of the note was \$48,000, Claimant's assets exceeded the limit. The Department is to consider the availability of the asset, given its foreclosure status, as well as any liens that may be placed on the property.


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 because the Department did not determine the fair market and equity value of the home, the Department did not act in accordance with Department policy when it closed Claimant's FAP case on the basis that the value of his assets exceeded the \$5,000 FAP asset limit.

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. Reinstate Claimant's FAP case effective April 1, 2014;
2. Determine the value of Claimant's countable assets in accordance with BEM 400;
3. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from April 1, 2014, ongoing; and
4. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 22, 2014

Date Mailed: April 22, 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

ZB/tlf

cc:

