

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-35091  
Issue No.: 2003;3003  
Case No.: [REDACTED]  
Hearing Date: May 21, 2014  
County: Kalamazoo

**ADMINISTRATIVE LAW JUDGE:** Vicki L. Armstrong

**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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, an in-person hearing was held on May 21, 2014, at the Department of Human Services (Department) Kalamazoo County office. Claimant personally appeared and provided testimony. Participants on behalf of Department included Hearing Facilitator [REDACTED].

**ISSUE**

In dispute was whether the Department properly denied Claimant's application for the Food Assistance Program (FAP) and Medical Assistance (MA) benefits based on excess assets.

**FINDINGS OF FACT**

Based on the competent, material, and substantial evidence on the whole record, including the testimony of witnesses, the Administrative Law Judge, finds as relevant fact:

1. On November 12, 2013, the Department sent Claimant Redetermination paperwork to complete and return the same month.
2. On March 24, 2014, the Department mailed Claimant a Notice of Case Action indicating his Medicaid benefits would be closed beginning 5/1/14 due to the Department learning of his property on [REDACTED] which made him over assets for Medicaid and changed his MA benefit to a deductible.
3. On April 16, 2014, the Department mailed Claimant a Notice of Case Action informing Claimant his FAP benefits would be closing as of 5/1/14, because the value of his assets is higher than allowed for the Food Assistance Program.

4. On April 18, 2014, Claimant filed a hearing request, contesting the Department's closure of FAP and MA benefits.

### **CONCLUSIONS OF LAW**

The FAP [formerly known as the Food Stamp (FS) program] was 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 in accordance with MCL 400.10, *et seq.*, and 1997 AACS, R 400.3001 through R 400.3015. Agency policies pertaining to this program are found in the BAM, BEM, and RFT.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

To determine FAP eligibility, the group's assets during the benefit month cannot exceed \$5,000. BEM 400. For MA eligibility, the group's assets cannot exceed \$2,000. Assets are cash, or any other personal property and real property.

The Department failed to provide a copy of the Redetermination, therefore, this Administrative Law Judge was unable to review the Redetermination or determine the date the Department received it or what Claimant wrote in it.

At issue during the hearing was the valuation of the properties at [REDACTED], alternatively referred to as [REDACTED] and property on [REDACTED]. The Department used the Kalamazoo County Equalization Department to determine the value of each property. The property at [REDACTED] was valued at \$ [REDACTED] and the property at [REDACTED] was valued at \$ [REDACTED].

According to departmental policy, the fair market value of real property and mobile homes for the FAP and MA programs is determined using:

- 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. BEM 400, p 29 (2/1/14).

During the hearing, Claimant presented a notarized warranty deed for the property at [REDACTED] showing he purchased the property for \$ [REDACTED]. Claimant also testified that he paid \$ [REDACTED] for the property on [REDACTED] and submitted documentation of the property being listed for \$ [REDACTED] at an auction on foreclosed

properties. The Department stated they did not have this information during the redetermination, and thus relied on county records instead of the deed. There was no Verification of Assets in the file, therefore, this portion of the case is reversed for the Department to redetermine the value of the properties based on the information available at the time of redetermination.

Under the Food Assistance Program, (FAP), the Department is not to count real property that the FAP group is making a good-faith effort to sell. All of the following must be met for the real property to be excluded:

No reasonable purchase offer has been made.

For active cases, the property is continuously up for sale by a real estate company, by owner, etc.).

An actual attempt has been made to sell it at a price not higher than the fair market value.

During the hearing, Claimant testified that the property at [REDACTED] has been up for sale for years. Claimant testified that he has not received a reasonable offer and the property is still for sale. Claimant offered documentation of the property being for sale in December, 2012. The Department stated that it was unaware the property was for sale and even if it was for sale, Claimant admitted he did not want to sell it, but wanted to fix the property up for his children to live there. There was no Verification of Assets in the file and it is unknown whether Claimant was asked if either property was for sale during the redetermination.

Because the Department was unaware the property is or was for sale, the Department did not determine whether a reasonable purchase offer had been made, or verify that the property has been continuously up for sale, or whether Claimant had made an actual attempt to sell the property at a fair market price. Claimant testified that he thinks he had one offer, but it was unclear if it was a reasonable offer at a fair market price, and whether, if the offer had been at a fair market price, whether Claimant would have accepted it. Therefore, this portion of the case is reversed for the Department to redetermine whether Claimant has made a good faith effort to sell the property, and as such, whether the property was counted in error in accord with BEM 400, p 13 (2/1/14).

Therefore, based on the above information and the lack of any documentation that Claimant did file a Redetermination or the date of Redetermination in the case file, or was sent a Verification of Assets concerning the value of the properties, this case is reversed.

### **DECISION AND ORDER**

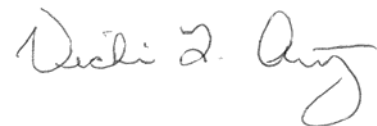
Based on the above findings of fact and conclusions of law, and for the reasons stated on the record, the Administrative Law Judge finds that the Department did not act properly.

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. Redetermine Claimant's eligibility for MA and FAP, from the date Claimant submitted the redetermination based on the information discussed in this Decision.

It is SO ORDERED.



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Vicki L. Armstrong  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: May 30, 2014

Date Mailed: May 30, 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;

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- 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

VLA/las

cc:

