

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-003125
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: June 24, 2014
County: Arenac

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 June 24, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included General Services Program manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Due to excess assets, did the Department properly close Claimant's case for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant was an on-going FAP recipient.
2. Claimant owns a home on a ½ acre parcel in [REDACTED], Arenac County. (Exhibit 1 Page 9.)
3. The parcel has an assessed value of \$ [REDACTED] (Exhibit 1 Page 10) making its presumed true cash value \$ [REDACTED].
4. Claimant's daughter, son-in-law, and grandchildren live on the property and, in lieu of rent, pay the property taxes.
5. Due to excess assets, on May 14, 2014, the Department closed Claimant's case.
6. On May 14, 2014, the Department sent Claimant its decision. (Exhibit 1 Page 17.)

7. On May 20, 2014, Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are found 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .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.

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 he allows his daughter and her family to live at the property he owns because she cannot afford to live anywhere else. That places him in a position of having to rent a home where he, his wife, and their son can live. The property is included for purposes of determining eligibility. The property has a presumed value of \$[REDACTED]. Claimant does not believe the property is worth that much, but he has not challenged the assessment and has no other credible valuation to suggest it is worth less than \$5,000. The property exceeds the limits allowed for FAP eligibility and renders him ineligible.

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: **6/24/2014**

Date Mailed: **6/24/2014**

DTJ/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

