

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

**IN THE MATTER OF:**



Reg. No.: 14-009723  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: September 16, 2014  
County: Mecosta

**ADMINISTRATIVE LAW JUDGE: Darryl 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 September 16, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) 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 was an on-going FAP recipient.
2. On June 15, 2014, a Redetermination form was mailed to Claimant with a due date of July 3, 2014. (Exhibit 1-A.)
3. During a telephone interview, it was discovered that Claimant owned two residential real estate parcels, neither of which was his home.
4. Claimant has had a spinal cord injury and is unable to live alone, so he has moved into a home with a friend.
5. Claimant subsequently sold one of the homes, but he retains ownership of the other.
6. The Department closed Claimant's FAP due to excess assets.
7. On August 7, 2014, the Department received Claimant's hearing request.

### **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 [REDACTED]. *Id* at 5.

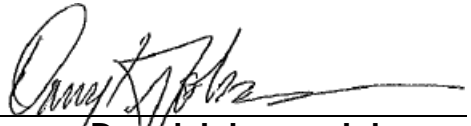
BEM 400 at page 1, "Assets mean cash, any other personal property and real property." At page 8, "An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset."

Claimant testified that he cannot live in the home because he is physically unable to live alone. He does not want to sell it, because he is hoping that his medical condition will improve enough for him to live there eventually. He does not want to rent the home, again because he wants it to be available if his condition improves sufficiently. The Department testified that the home is believed to be worth [REDACTED], based upon a call to the Township Assessor. Claimant does not believe the property is worth that much, and a neighboring farmer suggested it is only worth [REDACTED]. Claimant has not challenged the assessment and has no other credible valuation to suggest it is worth less than [REDACTED]. Even if the Department's testimony regarding the value is disregarded, Claimant agrees that it is worth [REDACTED] or more. 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 closed Claimant's FAP.

**DECISION AND ORDER**

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

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

Date Signed: **9/17/2014**

Date Mailed: **9/17/2014**

DTJ / jaf

**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:

