

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

IN THE MATTER OF:

██████████
██████████
██

Reg. No.: 15-006993
Issue No.: 3001
Case No.: ██████████
Hearing Date: June 08, 2015
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator, Assistance Payments Supervisor, and ██████████, Assistance Payments Worker.

ISSUE

Did the Department properly deny the Claimant's Food Assistance (FAP) application?

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance on April 13, 2015. The Department issued a Notice of Case Action on April 28, 2015 denying the Claimant's Application due to excess assets. Exhibit 2.
2. The Claimant received a settlement check from litigation which she provided to the Department either as part of her application or shortly thereafter which the Department received. The check was in the amount of \$8,817.14. Exhibit 1.
3. At the time of the application on April 13, 2014, the Claimant owned two cars.

4. The Claimant purchased a new car on April 20, 2015 in the amount of \$5,300 and provided proof to the Department of said purchase on April 20, 2015 by certified mail. The Claimant also provided proof of the cost of taxes associated with the car. Claimant Exhibit 1.
5. On April 17, 2015 the Claimant requested a hearing regarding the denial of her food assistance application as well as medical assistance.
6. At the hearing, the Claimant and the Department agreed that the Claimant and her son have current ongoing medical assistance and, therefore, there is nothing to be decided on that issue at this hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Claimant was found to have excess assets and the Department denied her application as a result of receiving the lawsuit settlement check in the amount of \$8,817.44 in April 2015, the application month. Exhibit 1 and 3. The Claimant was found to be over the asset limit for eligibility for food assistance. The asset limit for food assistance is \$5,000 or less.

During the hearing it was also determined that the Claimant, at the time of her April 2015 application, owned two vehicles and thus, based on the Department's testimony, it was determined that the price of the lower vehicle counted toward an asset.

Assets mean cash, any other personal property and real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. **Personal property** is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles).

Overview of Asset Policy

FIP asset rules apply to RCA

Countable assets **cannot** exceed the applicable asset limit. Not all assets are counted. Some assets are counted for one program, but not for another program. Some programs do **not** count assets; see **Programs With No Asset Test** in this item. BEM 400 (July 1, 2015), p.1

In April 2015, the Claimant's application month the FAP asset limit was \$5,000.or less. BEM 400, p.5

Bridges treats lump-sums and accumulated benefits as assets starting the month received. BEM 500 (April 1, 2015) p.6

Lump Sum: A one-time payment that is **not** an accumulation of monthly benefits. Examples: Income tax refunds, inheritances, insurance settlements, injury awards, Medical Loss Ratio Rebates, Keepseagle Track A payments. BPG Glossary, (April 1, 2015) p, 40.

At the hearing the Claimant credibly testified that she provided the Department proof that she had received a lawsuit settlement in the amount of \$8,817.44. The check was dated April 14, 2015. Exhibit 1. The Claimant also credibly testified that she spent much of the settlement money on a new car and insurance for her car which she provided the receipts to the Department by certified mail on April 20, 2015. Claimant Exhibit 1. The new car had a \$5,300 value and a receipt for sales tax on the car was \$318 and a \$30 registration fee for a total of \$5,648. Notwithstanding the Claimant spent most of the proceeds of her legal settlement, the Department is required to treat the Lump Sum payment as an asset for the month of April 2015. Thereafter, once the Claimant reapplies, the Claimant is entitled to show that her assets are reduced by the purchase of a car, etc. Thus, after a review of the evidence presented, it is determined that the Department correctly denied the FAP application due to excess assets as the lump sum received is counted for the month received (April 2015).

At the hearing the Department contended that the Claimant was also ineligible for April 2015 as she had two cars in April. At the hearing the Claimant produced a receipt dated May 28, 2015 for donation of her second car and noted a book value of \$1,527.

There is a \$15,000 limit on countable vehicles owned by the FAP group. Enter the fair market value of all licensed and unlicensed vehicles and the mileage. Do **not** allow for options such as low mileage, automatic transmission, power windows and power locks.

Bridges adds together the fair market value of all licensed and unlicensed vehicles which are not excluded and subtracts \$15,000 to determine the countable value; see **FAP Vehicle Exclusions**. If the countable value exceeds \$15,000 the excess is applied towards the \$5,000 asset limit. For instance, the value of the client's countable vehicles equals \$17,000. The remaining amount of \$2,000 is counted towards the \$5,000 asset limit. BEM 400 (July 1, 2015) p. 37

At the hearing the undersigned erroneously ruled that having two cars made Claimant ineligible for FAP. This was in error. Based upon the policy found in BEM 400 cited above, the total value of the Claimant's vehicles was \$6,827 which does not exceed \$15,000. The fact that the Claimant owned two vehicles did not disqualify her because the two vehicles' value does not exceed the \$15,000 limit. In addition, the Department is required to exclude one vehicle with the highest fair market value. As suggested at the hearing, the Claimant can reapply for FAP at any time.

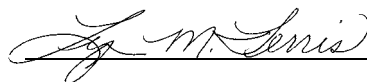
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the Claimant's FAP application of April 13, 2015.

The Claimant's request for hearing regarding Medical Assistance is **DISMISSED** as at the time of the hearing the Claimant and her son had insurance and, thus, there was no issue to be decided.

DECISION AND ORDER

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

The Claimant's request for hearing dated April 17, 2015 regarding Medical Assistance is **DISMISSED**.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/11/2015**

Date Mailed: **6/11/2015**

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