

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 15-001070
Issue No.: 2001;3001
Case No.: ██████████
Hearing Date: February 19, 2015
County: WAYNE-18 (TAYLOR)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 February 19, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits and (Medical Assistance) MA benefits for excess assets?

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 a FAP and MA recipient.
2. On October 29, 2014, an OIG referral was made with regards to the Claimant after a friend deposited money into Claimant's bank account that the Claimant's case worker found suspicious.
3. The OIG ran a single Lexis/Nexus report, which reported that Claimant allegedly had two homes.
4. One of these homes allegedly owned by the Claimant on the Lexis/Nexus report did not actually list the Claimant's name as owner.

5. After taking this report, Claimant's caseworker went to [REDACTED], a home buying website, and used the company's "[REDACTED]" to determine fair market value for the homes, even though one of the homes was clearly not in Claimant's name.
6. Using these [REDACTED], Claimant's caseworker determined that Claimant was over the asset limit for the FAP and MA programs.
7. On December 10, 2014, Claimant was sent a notice of case action closing the FAP and MA benefit cases.
8. On January 27, 2015, Claimant requested an administrative hearing to contest the closure.

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 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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Leaving aside the fact that the Lexis/Nexus report is rife with errors and should have been given little to no weight, or at the very least, investigation as to the information contained within, at no point does policy allow for the use of [REDACTED]" to determine fair market value of a home. Furthermore, it should be pointed out that one of the homes Claimant allegedly owns, per the report, does not even appear on the report under Claimant's name, and is, quite obviously an error.

Furthermore, a Lexis/Nexus report is not sufficient to determine whether a home is owned by a FAP and MA recipient or not, nor is a "[REDACTED]" proper in determining fair market value.

From BAM 400 (2015), pg. 29:

“To determine the fair market value of real property and mobile homes use:

- 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.

At no point does policy allow for a [REDACTED] to determine fair market value for real property.

Furthermore, on pg. 58 of BEM 400, it specifically states that the same documents must be used to prove ownership of real property. At no point does policy allow for a Lexis/Nexus search to be used to prove ownership.

Therefore, as the Department closed Claimant’s FAP and MA case based on ownership allegations found in a Lexis/Nexus search, and used fair market value found in a [REDACTED], the undersigned holds that the Department did not follow policy in any way with regard to this case and must be reversed.

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 did not act in accordance with Department policy when it closed Claimant’s FAP and MA case.

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. Reopen Claimant's FAP and MA case retroactive to the date of negative action.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/5/2015**

Date Mailed: **3/5/2015**

RJC / tm

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:

CC: