

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

IN THE MATTER OF:

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

Reg. No.: 15-006990
Issue No.: 3001
Case No.: ██████████
Hearing Date: June 04, 2015
County: Wayne-District 76

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator/Assistance Payment Supervisor, and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's February 13, 2015, application 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, finds as material fact:

1. On February 13, 2015, Claimant applied for FAP benefits online, indicating that he had two vehicles, a ██████████ and a ██████████ (Exhibit E, p. 6).
2. On February 18, 2015, the Department sent Claimant a Notice of Case Action notifying him that his application was denied because the value of his assets exceeded the asset limit for FAP eligibility.
3. On April 21, 2015, Claimant filed a request for hearing disputing the Department's actions.

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.

Claimant disputed the denial of his FAP application. The February 18, 2015, Notice of Case Action notified Claimant that his FAP application was denied because the value of his countable assets was higher than allowed for FAP. In order to be eligible for FAP, a client may not have assets in excess of the asset limit. BEM 400 (January 2015), pp. 1, 14. The asset limit for FAP is \$5000. BEM 400, p. 5.

In this case, Claimant identified two vehicles in the “vehicle asset information” portion of the application: a [REDACTED] and a [REDACTED]. At the hearing, the Department explained that its system automatically denied Claimant’s application based on information concerning the two vehicles. For FAP purposes, the Department considers only the fair market value of countable vehicles owned by the FAP group, both licensed and unlicensed, in excess of \$15,000. BEM 400, pp. 36-37. Excluded from the vehicle asset evaluation are the following (i) vehicles with a fair market value of \$1500 or less if currently licensed/registered by the state; (ii) leased vehicles (unless the option to purchase is exercised); and (iii) after all other applicable exclusions are applied, one vehicle with the highest fair market value per household. BEM 400, pp. 37-39.

The Department must verify asset value at application unless countable assets exceed the limit based on a person’s own statement of value. BEM 400, p. 56. In this case, Claimant did not identify a fair market value for the [REDACTED] in his application but indicated that he owed over \$31,000 on the [REDACTED]. At the hearing, he testified that he leased the [REDACTED] and had not exercised the option to purchase. Although the Department indicated that the application asks clients to identify whether vehicles are owned or leased, there was no indication on the application that clients are asked to make such a distinction. Because there is no evidence that a client is asked to identify whether a vehicle is leased, if Claimant’s testimony that the [REDACTED] is a leased vehicle is verified, the [REDACTED] would be excluded from the asset valuation.

Furthermore, when the value of a vehicle must be verified, Department policy requires that the Department use the lower of the value of the vehicle under the [REDACTED] fair condition option or [REDACTED] at wholesale, applying the greater of actual mileage or 12,000 miles per year and the client's ZIP code. BEM 400, pp. 60-61. In this case, even though the Department testified that the value of the vehicles led it to conclude that Claimant had excess assets, there was no evidence presented that the Department assessed the fair market value of either vehicle. Moreover, the Department is required to exclude, after all other exclusions are applied, from Claimant's vehicle value one vehicle with the highest fair market value per household. If the [REDACTED] is excluded as a leased vehicle and the [REDACTED] is the remaining vehicle, the value of the [REDACTED] would be excluded from assessing the value of Claimant's vehicles regardless of its value.

Because the Department did not verify the lease status of the [REDACTED] or determine the fair market value of the countable vehicles, if any, the Department did not act in accordance with Department policy when it denied Claimant's FAP application for excess assets due to vehicle value.

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. Reregister and reprocess Claimant's February 13, 2015, FAP application;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive from February 13, 2015, ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/10/2015**

Date Mailed: **6/10/2015**

ACE / tlf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]