

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

**IN THE MATTER OF:**

[REDACTED]

MAHS Reg. No.: 15-022192  
Issue No.: 3001  
Agency Case No.: [REDACTED]  
Hearing Date: February 03, 2016  
County: Muskegon

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**HEARING DECISION**

Following the Petitioner'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, an in-person hearing was held on February 3, 2016, from Muskegon Heights, Michigan. The Petitioner appeared and testified and was represented by her mother and Authorized Hearing Representative, [REDACTED]. Also present was the Petitioner's sister, [REDACTED]. The Department was represented by Hearing Facilitator, [REDACTED]; Family Independence Manager, [REDACTED] and Family Independence Specialist, [REDACTED].

**ISSUE**

Did the Department properly take action to close the Petitioner's Food Assistance Program (FAP) case due to 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. The Petitioner was an ongoing recipient of monthly FAP benefits in the amount of \$ [REDACTED].
2. On October 29, 2015, the Department completed a redetermination interview for FAP and cash assistance. The Department received inconsistent information regarding the Petitioner's living arrangements.
3. On October 30, 2015, the Department worker conducted a telephone interview with the Petitioner. The Petitioner's property tax records show that she owns a home at [REDACTED], but her address is [REDACTED]. The Department's worker

requested a FEE referral and called the local water department to verify if service was active at the Petitioners stated address. The water department reported that service had not been active at [REDACTED] since 2005.

4. On November 9, 2015, the results of the FEE investigation determined that the Petitioner owns the home at [REDACTED], but that she does not live there.
5. The SEV of the Petitioner's home is in excess of \$ [REDACTED]
6. On November 23, 2015, the Department sent the Petitioner a DHS-176, Benefit Notice informing the Petitioner that her FAP case would close on December 1, 2015.
7. On November 23, 2015, the Department received the Petitioner's written request for hearing protesting the closure of her FAP case.

### **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 facts are not contested. The Petitioner's AHR does not dispute that the Petitioner owns the home on [REDACTED] and that she lives with the Petitioner's AHR. The Petitioner's testimony was that she purchased the home on [REDACTED] at an auction for \$ [REDACTED]. The Petitioner's testimony was that she plans to fix up the house and eventually reside in it. The Petitioner testified that the Department even assisted her with purchasing a water heater and furnace for her future home as part of State Emergency Relief (SER) benefits. That was not contested, indeed, the Department personnel hearing testified this was the Department error. The Administrative Law Judge agrees with the Department's conclusion that this is a department error, particularly as the Department was aware on in March 2015, yet no request for recoupment was submitted until November 9, 2015.

The case notes in evidence indicate that the Petitioner's caseworker at the time had, subsequent to the SER eligibility determination, discovered that the Petitioner's home was unlivable because it had no water, sink, door or windows on the home. The Department personnel at the hearing testified that the previous caseworker had wrongly

determined that the Petitioner was eligible for State Emergency Relief for a furnace and a water heater because the home was not livable.

The Petitioner's AHR cites Bridges Eligibility Manual (BEM) 400 (2015) p. 35 in support of her argument that the Petitioner's home should be excluded and not counted as an asset. This policy provision instructs Department's worker to exclude a lot, including a partially built home, if the owner intends it to become the fiscal group's homestead and has no other homestead. This Administrative Law Judge determines that this policy provision does not apply to the Petitioner circumstances. The Petitioner does not own a partially built home. The testimony was that the Petitioner's home is condemned and not livable.

As such, this Administrative Law Judge determines that BEM 400 p. 34, homestead-lost land exclusion, is more applicable to the Petitioner circumstances. This policy provision provides that the Department's worker exclude the land of a damaged, destroyed or condemned homestead if both of the following are true: the owner intends to be reoccupy it, and there is a written repair or replacement agreement. The policy requires that the Petitioner declare an estimated completion date. The exclusion would then last until that date, though the local office may grant extensions. Once the Petitioner has fulfilled and verified these policy requirements, she may then be able to have her homestead excluded as an asset from her FAP budget thereby resulting in possible eligibility. As those things have not yet happened, this Administrative Law Judge concludes that the Department has properly determined that the Petitioner's house that she does not reside in, is an asset and is properly counted in her FAP budget.

BEM 400 p. 5 provides that, to be eligible for FAP benefits, the Petitioner need have \$5000 or less in assets. During the hearing, the Petitioner's AHR contested that the Petitioner's house was valued at the amount the Department said it was. The Petitioner submitted exhibit from the County Treasurer's office indicating that the taxable value of the Petitioner's house was \$ [REDACTED]. As such, this Administrative Law Judge concludes that the Department has properly determined that the Petitioner's house is valued in excess of \$5000.

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 took action to close the Petitioner's FAP case.

**DECISION AND ORDER**

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



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**Susanne E. Harris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Mailed: **2/8/2016**

SEH/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 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:

