



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: April 4, 2016  
MAHS Docket No.: 16-002190  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### **HEARING DECISION**

Following 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, a telephone hearing was held on March 31, 2016, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Hearing Facilitator [REDACTED]. Testimony was received from all participants. Department's Exhibit A, pages 1 -20 was admitted into evidence.

### **ISSUE**

Did the Department properly deny Petitioner's February 4, 2016 Food Assistance Program (FAP) application for divestment?

### **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 August 22, 2002, a land contract in the amount of \$ [REDACTED] was registered for the residence at [REDACTED], Saginaw, Michigan (Department Exhibit A page 9).
2. On September 8, 2005, a Warrant Deed was registered for sale of the residence at [REDACTED], Saginaw, Michigan for \$ [REDACTED] (Department Exhibit A page 9).
3. On April 23, 2013, a Certificate of Forfeiture of Real Property was registered showing that the residence at [REDACTED], Saginaw, Michigan was

forfeited to the Saginaw County Treasurer for non-payment of property taxes (Department Exhibit A page 12 & 17).

4. On February 18, 2014, a Quit Claim Deed was registered for transfer of the residence at [REDACTED], Saginaw, Michigan for \$ [REDACTED] (Department Exhibit A page 9).
5. On April 17, 2014, a Quit Claim Deed was registered for transfer of the residence at [REDACTED], Saginaw, Michigan for \$ [REDACTED] (Department Exhibit A page 9). Petitioner was the grantee.
6. On December 10, 2015, a Quit Claim Deed was registered for transfer of the residence at [REDACTED], Saginaw, Michigan for \$ [REDACTED] (Department Exhibit A page 9). Petitioner was the grantor.
7. On February 4, 2016, Petitioner submitted an application for Food Assistance Program (FAP) benefits.
8. On February 8, 2016. Petitioner was sent a Notice of Case Action (DHS-1605) which stated her application was denied because she transferred assets for less than fair market value and the benefit must remain closed from February 1, 2016 through January 31, 2017.
9. On February 19, 2016, Petitioner submitted a hearing request.

### **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.

On February 8, 2016, when the eligibility determination at issue was made, the Department only had the records showing the Quit Claim Deed transfers and that the property had an assessed value of \$ [REDACTED]. Bridges Eligibility Manual (BEM) 406 FAP Divestment at page states that divestment is a transfer of assets for less than fair market value to qualify for program benefits or to remain eligible for program benefits. The BPG Glossary at page 25 defines fair market value as:

The amount of money the owner would receive in the local area for his asset (or his interest in an asset) if the asset (or his interest in the asset) was sold on short notice, possibly without the opportunity to realize the full potential of the investment. That is, what the owner would receive and a buyer are willing to pay on the open market and in an arm length transaction. See definition in this glossary.

The legal consequence of the forfeiture to the Saginaw County Treasurer is that the property cannot be sold or transferred until the title is cleared. Payment of the back property taxes is just one of the requirements to clear the title. The subsequent Quit Claim Deed transfers were not legal and Petitioner did not have any legal rights in the property. The legal status of the property means that Petitioner did not actually transfer ownership of the property. Therefore, no divestment occurred.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's February 4, 2016 Food Assistance Program (FAP) application for divestment.

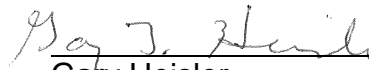
### **DECISION AND ORDER**

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 Petitioner's February 4, 2016 Food Assistance Program (FAP) application and process it in accordance with Department policy.
2. Issue Petitioner current notice of the new Food Assistance Program (FAP) eligibility determination.

GH/nr

  
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Gary Heisler  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**DHHS**

[Redacted]

**Petitioner**

[Redacted]