



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 1, 2016
MAHS Docket No.: 16-010304
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 August 24, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner. Petitioner's daughter, [REDACTED], appeared at the hearing as a witness. [REDACTED] served as an [REDACTED] Interpreter for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's FAP benefits effective July 1, 2016?

FINDINGS OF FACT

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

1. Petitioner was a FAP recipient.
2. On [REDACTED], Department received a Bill of Sale which showed that Petitioner sold his vehicle for [REDACTED]
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action which informed Petitioner that his FAP benefits would close effective [REDACTED] due to the transfer of an asset for less than fair market value.

4. On [REDACTED], Petitioner 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.

In this case, the Department testified that it closed Petitioner's FAP benefits because he sold his 2002 [REDACTED] [REDACTED] for less than fair market value. The Department presented documentation which indicated that Petitioner purchased the vehicle on [REDACTED] for [REDACTED]. A Bill of Sale also produced by the Department revealed that Petitioner sold the vehicle on [REDACTED] for [REDACTED].

The Department testified that it disqualified Petitioner for a period of six months. However, the difference between the purchase price and the sale price was [REDACTED]. Under Department policy, the disqualification period would have been three months. Petitioner testified that after he purchased the vehicle, he realized that the engine and transmission were in poor working condition. Petitioner further testified that he contacted his worker to advise that he was required to sell the vehicle for less than he paid due to the mechanical issues with the car. Petitioner stated that his worker did not request that he submit proof of the condition of the vehicle. It is found that Petitioner paid more than the car was worth and in turn, sold the car at a fair market value given the mechanical issues associated with the vehicle.

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 Petitioner's FAP benefits for selling his vehicle for less than fair market value. .

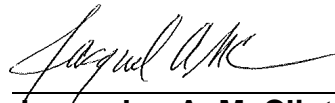
DECISION AND ORDER

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. Reinstate Petitioner's FAP benefits effective [REDACTED];
2. Issue supplements that Petitioner was eligible to receive but did not effective [REDACTED]; and
3. Notify Petitioner, in writing, of its decision.

JM/hw



Jacquelyn A. McClinton

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]

[REDACTED]

Petitioner

[REDACTED]