



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: [REDACTED] July 24, 2017  
MAHS Docket No.: 17-007330  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Carmen G. Fahie

### **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; 42 CFR 438.400 to 438.424; 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 [REDACTED], from [REDACTED], Michigan. Petitioner was represented by herself and her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist; and [REDACTED], Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP) benefits due to 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. Petitioner was a recipient of FAP benefits with a redetermination due.
2. On [REDACTED], the Department Caseworker sent Petitioner a Verification Checklist, DHS 3503, that was due [REDACTED], for Petitioner to submit required verifications to determine continued FAP eligibility.
3. On [REDACTED], the Department received a written statement from Petitioner's husband that he had sold the property in question to his son for \$ [REDACTED]. Department Exhibit 1, pg. 8.

4. On [REDACTED], the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605, that stated that her FAP case was closed from [REDACTED], because assets were transferred for less than fair market value resulting in a divestment penalty from [REDACTED], through [REDACTED]. Department Exhibit 1, pgs. 4-7.
5. On [REDACTED], Petitioner's husband verbally requested a hearing to contest the Department's negative action.

### **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 Petitioner was a recipient of FAP benefits with a redetermination due. On [REDACTED], the Department Caseworker sent Petitioner a Verification Checklist, DHS 3503, that was due [REDACTED], for Petitioner to submit required verifications to determine continued FAP eligibility. On [REDACTED], the Department received a written statement from Petitioner's husband that he had sold the property in question to his son for \$ [REDACTED]. Department Exhibit 1, pg. 8. On [REDACTED], the Department Caseworker sent Petitioner a Notice of Case Action, DHS 1605, that stated that her FAP case was closed from [REDACTED] because assets were transferred for less than fair market value resulting in a divestment penalty from [REDACTED], through [REDACTED]. Department Exhibit 1, pgs. 4-7. On [REDACTED], Petitioner's husband verbally requested a hearing to contest the Department's negative action. BEM 400 and 406.

During the hearing, Petitioner's husband stated that his father who passed recently wanted the property to stay in the family. Since the property is no longer conjoined to the homestead property, the separated property must be counted as an asset. According to the Department Caseworker, the property had a State Equalized Value (SEV) of \$ [REDACTED], resulting in a value of \$ [REDACTED]. Department Exhibit 1, pgs. 12-14. As a result, Petitioner has a divestment penalty from [REDACTED], through [REDACTED].

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 compliance with Department policy by determining that Petitioner's husband had sold

property for less than the fair market value resulting in a divestment penalty from [REDACTED], through [REDACTED], for FAP benefits.

**DECISION AND ORDER**

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

*Carmen G. Fahie*

CF/bb

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**Carmen G. Fahie**  
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]