



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: August 30, 2017  
MAHS Docket No.: 17-009609  
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, a telephone hearing was held on August 23, 2017, from Lansing, Michigan. Petitioner was represented by himself and his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

### **ISSUE**

Did the Department properly determine that Petitioner had excess assets for the Food Assistance Program (FAP) and properly closed the Petitioner's Child Development and Care (CDC) case?

### **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 CDC benefits.
2. On February 1, 2017, Petitioner applied for FAP benefits.
3. On February 17, 2017, Petitioner submitted to the Department certificate of title for three vehicles. Department Exhibit 1, pgs. 10-12.
4. On May 5, 2017, Petitioner submitted to the Department a bank account verification for C and M. Department Exhibit 1, pgs. 14-15.

5. On May 12, 2017, Petitioner submitted to the Department a bank account verification for A. Department Exhibit 1, pg. 13.
6. On June 30, 2017, the Department Caseworker sent Petitioner a Notice of Case Action that his CDC case was closed from October 2, 2016, through March 4, 2017, for M, and from March 5, 2017 to ongoing for C and M because there was not a need for daycare for employment and for FAP that his application was denied for February 1, 2017, ongoing because verification of self-employment was not returned for Petitioner and due excess assets. Department Exhibit 1, pgs. 18-20.
7. On July 14, 2017, the Department received a hearing request from Petitioner, contesting 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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner was a recipient of CDC benefits. On February 1, 2017, Petitioner applied for FAP benefits. On February 17, 2017, Petitioner submitted to the Department certificate of title for three vehicles. Department Exhibit 1, pgs. 10-12. On May 5, 2017, Petitioner submitted to the Department a bank account verification for C and M. Department Exhibit 1, pgs. 14-15. On May 12, 2017, Petitioner submitted to the Department a bank account verification for A. Department Exhibit 1, pg. 13. On June 30, 2017, the Department Caseworker sent Petitioner a Notice of Case Action that his CDC case was closed from October 2, 2016, through March 4, 2017, for M, and from March 5, 2017, to ongoing for C and M because there was not a need for daycare for employment and for FAP that his application was denied for February 1, 2017,

ongoing because verification of self-employment was not returned for Petitioner and due excess assets. Department Exhibit 1, pgs. 18-20. On July 14, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action. BEM 400 and 501.

BEM 400, ASSETS, pgs. 39-41

## **FAP Vehicle Exclusions**

### ***Highest Fair Market Value Exclusion***

#### **FAP**

Exclude one vehicle with the highest fair market value per household. This exclusion occurs after all other vehicle exclusions are applied.

**Example:** A client has three vehicles with fair market values of \$1,500, \$19,000 and \$25,000. The vehicle worth \$1,500 is excluded because the fair market value is \$1,500 or less. Of the remaining fair market values, the vehicle worth \$25,000 is excluded because it is the one with the highest fair market value. Based on the fair market value of the third vehicle, Bridges will count \$4,000 (\$19,000 - \$15,000) towards the \$5,000 asset limit.

### ***Fair Market Value Exclusion***

#### **FAP**

Exclude vehicles with a fair market value of \$1,500 or less if currently licensed/registered by the state.

### ***Vehicle as Home Exclusion***

#### **FAP**

Exclude vehicles that serve as the owner's home if currently licensed/registered by the state.

### ***Disability Exclusion***

#### **FAP**

Exclude one vehicle to transport each physically disabled group member. It does **not** have to be used primarily for that purpose. It must be currently licensed/registered by the state.

### ***Fuel/Water Exclusion***

#### **FAP**

Exclude vehicles necessary to carry heating fuel or water for home use when such transported fuel/water is the primary source for the group. The vehicle must be currently licensed/registered by the state.

### ***Employment Exclusion***

#### **FAP**

Exclude the following vehicles during periods of employment and temporary unemployment. The vehicle must be currently licensed/registered by the state.

- Vehicles used for income-producing purposes such as but not limited to a taxi, truck, fishing boat or vehicles used for deliveries.

**Note:** Licensed vehicles previously used by a self-employed household member engaged in farming but no longer used because they quit their self-employment are excluded for one year from the date farming ended.

- Vehicles producing income consistent with their trade-in value even if used on only a seasonal basis.
- Vehicles used on long-distance travel other than daily commuting that are essential to the employment of an asset group member. Examples include migrant worker and traveling salesperson.

### ***Leased Exclusion***

Exclude vehicles which are leased because the individual has no equity value, cannot sell the vehicle and generally does not have title to the vehicle.

**Exception:** During or at the end of the lease agreement if the individual chooses the purchase option, the vehicle is included in the vehicle asset limit.

During the hearing, the Department Caseworker stated that Petitioner had failed to submit all of the account information. However, upon review of the verifications provided, all of the account information had been provided, but the Department did not use the lowest balance during the month minus earned or unearned income received

that month. In addition, the FAP policy has changed allowing the most expensive vehicle to not be counted as an asset and an additional \$ [REDACTED] vehicle FAP allowance.

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 determined that Petitioner had excess assets for FAP and no employment need for CDC.

### **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 of initiating a redetermination of Petitioner's eligibility for FAP retroactive to his FAP application dated February 1, 2017, and CDC based on case closure date of October 2, 2016.

Based on policy, the Department should provide Petitioner with written notification of the Department's revised eligibility determination and issue Petitioner any retroactive benefits he may be eligible to receive, if any.



CF/md

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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]