



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 16, 2017
MAHS Docket No.: 17-011915
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on October 5, 2017, from [REDACTED] Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

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 May 22, 2017, Petitioner applied for Food Assistance Program (FAP) benefits. Exhibit A, p 3.
2. On May 31, 2017, the Department denied Petitioner's May 22, 2017, application for Food Assistance Program (FAP) benefits. Exhibit A, p 3.
3. On July 11, 2017, the Department received Petitioner's request for a hearing protesting the denial of her May 22, 2017, application for Food Assistance Program (FAP) benefits. Exhibit A, p 3.
4. On August 24, 2017, the Michigan Administrative Hearing System (MAHS) reversed the denial of Petitioner's May 22, 2017, application and ordered the Department to reprocess the application. Exhibit A, p 4.

5. On August 28, 2017, the Department notified Petitioner that her May 22, 2017, application for Food Assistance Program (FAP) benefits had been denied. Exhibit A, p 6.
6. On September 1, 2017, the Department received Petitioner's request for a hearing protesting the Department's denial of Food Assistance Program (FAP) benefits.
7. On September 5, 2017, the Department received a quitclaim deed transferring the property located at [REDACTED]. Exhibit A, p 13.

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.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (April 1, 2017), pp 1-7.

A FAP benefit group is not eligible for benefits if the group's countable assets exceed \$5,000. BEM 400.

On May 22, 2017, Petitioner applied for FAP benefits. On May 31, 2017, the Department denied Petitioner's FAP application based on records showing that Petitioner was a part owner of real property that was not her primary residence and exceeded the \$5,000 asset limit.

On August 24, 2017, the denial of Petitioner's application was reversed on the basis that Petitioner had transferred her interest in the real property.

The Department reprocessed the May 22, 2017, FAP application and on August 28, 2017, it determined that Petitioner remained ineligible due to excess assets on the basis that Petitioner still held an interest in real property located at [REDACTED]

On September 5, 2017, the Department received a quitclaim deed transferring Petitioner's interests in the real property located at [REDACTED].

This Administrative Law Judge finds that the hearing record supports a finding that Petitioner had transferred her interests in the real property located [REDACTED], and that this real property was not a countable assets as of May 22, 2017. The Department failed to establish that Petitioner did not hold any ownership interest in that property as of her application for FAP benefits.

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 determined that the property located at [REDACTED] was a countable asset.

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:

Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits as of May 22, 2017, in accordance with policy.

KS/nr



Kevin Scully
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]