



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: June 7, 2019
MOAHR Docket No.: 19-004722
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 5, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented himself. Hearing Coordinator, Haysem Hosny, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's 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. Petitioner requested FAP benefits from the Department.
2. The Department reviewed Petitioner's application and determined that his household had assets exceeding the FAP program limit.
3. Petitioner's spouse had a retirement account with a balance of \$ [REDACTED] as of the quarter ending March 31, 2019. Petitioner and his spouse had an outstanding loan balance of \$ [REDACTED] against the account as of the quarter ending March 31, 2019. Petitioner and his spouse had been advised by the

account administrator that they could not take out any additional loans or make withdrawals while they had an outstanding loan balance.

4. Petitioner and his spouse owned a second home in [REDACTED], Michigan. The property had an estimated value of \$[REDACTED] and an outstanding mortgage balance of \$[REDACTED]. Petitioner and his spouse were under the impression that they could not sell the property because they had an open chapter 13 bankruptcy case.
5. Petitioner and his spouse had separate savings accounts for each of their four children at [REDACTED]. The accounts had a total of \$[REDACTED] on deposit as of March 29, 2019.
6. Petitioner's spouse had a draft account at [REDACTED]. The account had a \$[REDACTED] balance as of March 31, 2019.
7. Petitioner and his spouse had a joint checking account at [REDACTED]. The account had a \$[REDACTED] balance as of March 31, 2019.
8. On April 25, 2019, the Department issued a notice of case action which notified Petitioner that his FAP benefits would be closed effective June 1, 2019, because his household's assets exceeded the program limit.
9. On May 3, 2019, Petitioner requested a hearing to dispute the Department's decision.
10. The Department did not issue any additional FAP benefits to Petitioner after he requested a hearing.

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 order to be eligible for FAP benefits, a client must meet the Department's asset limit. Countable assets cannot exceed the asset limit in BEM 400 (April 1, 2019). An asset is countable if it is available and it is not a specifically excluded asset. BEM 400, p. 10. An asset is available if anyone in the asset group has a legal right to use or dispose of

the asset. BEM 400, p. 10. For FAP benefits, the asset limit is \$5,000.00. BEM 400, p. 5-6. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3.

Here, Petitioner's group had assets clearly in excess of \$5,000. Without even considering Petitioner's retirement and real estate assets, Petitioner's group has assets in excess of \$[REDACTED]. Petitioner's group had deposits in excess of \$[REDACTED] which were both available and not excluded. Since Petitioner's group had assets in excess of \$[REDACTED] the Department properly closed Petitioner's FAP benefits.


Petitioner asserted that the Department ceased issuing FAP benefits when it should not have because he filed a timely hearing request. Petitioner may be correct. It is unclear whether Petitioner had a current certification period in effect when the Department issued its notice of case action to close Petitioner's FAP benefits. However, the point is moot now because the Department properly closed Petitioner's FAP benefits. Thus, if FAP benefits would have continued beyond the closure, they would now have to be paid back.

DECISION AND ORDER

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 act in accordance with its policies and the applicable law when closed Petitioner's FAP benefits.

IT IS ORDERED that the Department's decision is AFFIRMED.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Dawn Tromontine
41227 Mound Rd.
Sterling Heights, MI
48314

Macomb 36 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
[REDACTED] MI
[REDACTED]