



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]

Date Mailed: August 15, 2019
MOAHR Docket No.: 19-007349
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; 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 8, 2019, from Detroit, Michigan. Petitioner represented herself. Petitioner's husband, [REDACTED], also appeared at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the 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 2, 2019, Petitioner and her husband quit claimed deeded real property to their son at no cost.
2. On May 13, 2019, Petitioner applied for FAP benefits.
3. The Department determined that the fair market value of the real property was \$7,932.00.
4. On May 13, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for FAP benefits had been denied.

5. On July 1, 2019, 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 denied Petitioner's application for FAP benefits because Petitioner transferred real property to a relative at less than fair market value. The Department determined that the State Equalized Value (SEV) of the property was \$7,932.00. Petitioner and her husband disputed this amount and testified that the real property was worth significantly less.

To determine the fair market value of real property and mobile homes use:

- Deed, mortgage, purchase agreement or contract.
- State Equalized Value (SEV) on current property tax records multiplied by two.
- Statement of real estate agent or financial institution.
- Attorney or court records.
- County records. BEM 400 (April 2019), pp. 32-33.

In this case, the Department used the SEV, which it obtained from an online search, and multiplied that amount by two. However, Petitioner's provided a copy of the Covenant Deed which is maintained by the County of Muskegon. Although the purchase amount is difficult to read on the copy of the Covenant Deed sent to the hearing office by facsimile, the Petitioner testified that the purchase amount was \$1,600.00, which appears to be the likely amount printed on the Covenant Deed. Petitioner also testified that the home was worth less than the price paid in 2012.

The asset limit for FAP benefits is \$5,000.00. BEM 400, p. 5. Because the Covenant Deed is an acceptable document when determining the fair market value of real property and because the value of the real property as listed on the Covenant Deed is less than the asset limit, it is found that the Department improperly denied Petitioner's 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 denied Petitioner's application for FAP benefits.

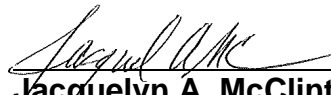
DECISION AND ORDER

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. Reregister and reprocess Petitioner's May 13, 2019 application for FAP benefits;
2. If Petitioner was eligible for supplements, issue FAP supplements Petitioner was eligible for but did not receive; and
3. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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

Via Email:

MDHHS-Muskegon-Hearings
BSC3 Hearing Decisions
[REDACTED]
[REDACTED]
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]