



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: January 19, 2021
MOAHR Docket No.: 20-007159
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held on January 7, 2021, via telephone conference line. Petitioner did not participate in the hearing. Petitioner's spouse, [REDACTED], testified and represented Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Silvester Williams, supervisor.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Family Independence Program (FIP) benefits due to excess assets.

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 [REDACTED], 2020, Petitioner applied for FIP benefits.
2. On October 4, 2020, during an interview for his application, Petitioner reported to MDHHS residency in a home with a fair market value exceeding \$200,000.
3. On October 14, 2020, MDHHS denied Petitioner's application for FIP benefits due to excess assets.
4. On [REDACTED], 2020, Petitioner requested a hearing to dispute the denial of FIP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Bridges Program Glossary (BPG), and Reference Tables Manual (RFT).

Petitioner requested a hearing, to dispute a denial of FIP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated October 14, 2020, stated that Petitioner's FIP eligibility was denied due to excess assets. Exhibit A, pp. 9-13.

For FIP, assets are considered. BEM 400 (July 2020) p. 1. Countable assets include real property. *Id.*, pp. 1-3. For an asset to be countable, it must be available and not an excluded asset.¹ *Id.*, p. 2. Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.*

MDHHS testified that the denial was solely based on the value of Petitioner's homestead. A homestead is the shelter that a person owns (or is buying) where they usually live and which is their principal place of residence. BPG (July 2020) p. 34.

MDHHS is to determine asset eligibility prospectively using the asset group's assets from the benefit month. *Id.*, p. 3. Countable assets cannot exceed the applicable asset limit. p. 2. While Department policies for most other benefit types exclude consideration of a homestead for asset eligibility purposes, FIP policy does not. BEM 400 (July 2020) p. 34.² Instead, the FIP asset limit for all real property is \$200,000. *Id.*, p. 5.

MDHHS is to use fair market value to determine the value of real property. *Id.*, p. 33. The fair market value is what the owner would receive, and a buyer be willing to pay, on the open market and in an arm length transaction. Bridges Program Glossary (July 2020) p. 26.

It was not disputed that Petitioner applied for FIP benefits while owning a homestead with a market value exceeding \$200,000. Petitioner's spouse testified that his home was subject to one or more liens and that its equity value is substantially less than \$200,000. Petitioner's spouse's testimony would be relevant if MDHHS determined real property

¹ Examples of excluded assets include certain lands owned by Native Americans, certain assistance paid to children through federal programs, certain assistance given to Native Americans under federal programs, and other relatively obscure assets not applicable to the present case. BEM 400 (July 2020) pp. 59-60.

² A homestead is listed as an excluded asset for Food Assistance Program (FAP) benefits and Medicaid. BEM 400 (July 2020) p. 34. Notably, no homestead exception is listed for FIP.

value based on equity value. As stated above, MDHHS considers market value when determining a client's real property assets.³

Petitioner's spouse alternatively contended that his home is not an available asset because he is not free to refinance and/or sell the home because of liens. As stated above, an asset is available if it can be disposed OR used. Use of "or" implies that if an asset can be used, it is an available asset. Petitioner's undisputed residency in the home would qualify as use of the home. Thus, it is an available asset.

Given the evidence, Petitioner's home is a countable, available, and non-excluded asset for purposes of FIP eligibility. The evidence further established that Petitioner's home has a fair market value exceeding the program limit. Thus, MDHHS properly denied Petitioner's application for FIP benefits due to excess assets.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FIP benefits dated [REDACTED] 2020, due to excess assets. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki

Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

³ For Food Assistance Program, Child Development and Care, and Medicaid, MDHHS does consider the equity value of real property. BEM 400 (July 2020) p. 33.

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-Oakland-3-Hearings
B. Sanborn
M. Schoch
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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