



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: January 11, 2019
MAHS Docket No.: 18-011508
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 telephone hearing was held on January 3, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brad Reno, hearing facilitator. Brianna Sweers, specialist for MDHHS, appeared as an observer.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's eligibility 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. At all relevant times, Petitioner was an ongoing recipient of FAP benefits.
2. On September 18, 2018, Petitioner submitted to MDHHS documents for the purpose of redetermining FAP eligibility after October 2018. Petitioner reported a residential address on [REDACTED] Michigan (hereinafter, "Property#1"). Exhibit A, pp. 9-17.
3. On October 5, 2018, Petitioner submitted to MDHHS documentation indicating ownership of a home on [REDACTED] Michigan (hereinafter, "Property#2").

4. As of October 5, 2018, county tax records listed the state equalized value (SEV) for Property#2 as \$ [REDACTED] and Petitioner as the sole owner.
5. On October 17, 2018, MDHHS initiated termination of Petitioner's FAP eligibility due to excess assets.
6. On October 26, 2018, Petitioner requested a hearing to dispute the termination of FAP benefits. (Exhibit A, pp. 4-5.)

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits beginning November 2018. MDHHS presented a Notice of Case Action (Exhibit A, pp. 26-29) dated October 17, 2018. The notice informed Petitioner of a termination of FAP benefits beginning November 2018 due to excess assets.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 (October 2018), p. 1. The FAP asset limit is \$5,000. *Id.*

Assets include cash, real property, and personal property. *Id.*, pp. 1-2. For FAP benefits, a homestead is an excludable asset. *Id.*, p. 35. To determine the fair market value of countable real property, MDHHS is to multiply the SEV by two. *Id.*, p. 32.

Petitioner resided at Property#1 and was the listed owner on tax records for Property#2. The only dispute concerned whether Petitioner owned Property#2.

MDHHS presented tax documentation dated October 5, 2018, from the county of Property#2. Petitioner was listed as the sole owner and sole taxpayer. (Exhibit A, p. 20.) An investigation report drafted by MDHHS indicated that Property#2 tax records stated that Petitioner purchased Property#2 for \$ [REDACTED] on February 11, 2017. (Exhibit A, p. 24.) The investigation report also asserted that a Lexis/Nexis report showed Property #2 as the address for Petitioner on her driver's license and voter registration. Petitioner's ownership of Property#2 was further established by a quitclaim deed notarized on February 11, 2017, which transferred ownership of Property#2 from the man Petitioner claimed to be the true owner to Petitioner.

Petitioner testified that she was only “involved” in the ownership of Property#2 to assist a disabled ex-spouse. Petitioner testified that the true owner of Address #2 refused to provide various services to Petitioner’s ex-spouse, which led to Petitioner’s “involvement” in the property. For purposes of this decision, Petitioner’s testimony will be accepted as accurate. Though Petitioner may be the owner of Property#2 only to assist her former spouse, MDHHS does not provide any known exceptions to ownership performed to assist a disabled former spouse.

Petitioner presented a notice of a tax delinquency hearing sent to Property#2. (Exhibit A, pp. 21-22; Exhibit 1, p. 1). The notice was sent in the name of the man that Petitioner claims to be the true owner of Property#2. The MDHHS specialist quickly responded that such evidence is not insightful because correspondence sent to Property#2 would list the resident of Property#2 - not the owner. MDHHS also contended that property tax correspondence sent in someone else’s name is not insightful because MCL 211.78g requires such mailings to be sent to the residence, and presumably, any residents of the residence. Notably, the property tax delinquency hearing notice did not refer to the addressee as an “owner” of Property#2.

Petitioner presented a notarized deed quitclaiming Petitioner’s ownership to the resident of Property#2. (Exhibit 1, p. 2). Petitioner testimony acknowledged that the deed was not registered with the county. The deed was notarized on November 9, 2018. Presumably, Petitioner submitted the deed to show a change in ownership of Property#2. For purposes of this decision, it will be assumed that an unregistered deed can establish a change in ownership. MDHHS initiated termination of Petitioner’s FAP eligibility on October 17, 2018.¹ Petitioner had no later than October 30, 2018 to establish that she fell below the asset limit. Thus, a change of Property#2’s ownership on November 9, 2018, does not impact whether MDHHS properly terminated Petitioner’s FAP eligibility.

Given the evidence, MDHHS established that Petitioner was the owner of Property#2 as of October 17, 2018, and throughout the subsequent negative action period. Thus, MDHHS properly factored Property#2 as a countable asset for Petitioner.


It was not disputed that Property#2 had an SEV of \$██████████. Doubling the SEV places Petitioner well above the \$5,000 asset limit to receive FAP benefits. Thus, MDHHS properly terminated Petitioner’s FAP eligibility beginning November 2018 due to excess assets.

¹ MDHHS typically pends closures for at least 11 days to allow clients time to react to the closure (see BAM 220). The period from the date of written notice until case closure is the negative action period.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning November 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



Christian Gardocki
Administrative Law Judge
for Farah Hanley, Acting 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) 763-0155; 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

Lindsay Miller
MDHHS-Genesee-UnionSt-Hearings

Petitioner

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

BSC4
M Holden
D Sweeney
C Gardocki
MAHS