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

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

████████████
███████████████
███████, MI █████

Date Mailed: June 11, 2020
MOAHR Docket No.: 20-002504
Agency No.: ████████████
Petitioner: ███████ ████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 June 4, 2020, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Danielle Shanley, Eligibility Specialist. Department Exhibit 1, pp. 1-19 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case 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. Petitioner was a recipient of SSI from the Social Security Administration.

2. When Petitioner reached the age of 62 years old, she began receiving social security retirement.

3. Petitioner was receiving FAP based on her receipt of SSI.

4. After Petitioner stop receiving SSI her eligibility was reviewed and it was determined that she owned several parcels of land that put her over the asset limit.

5. On March 6, 2020, Notice of Case Action was sent to Petitioner informing her that FAP would close due to excess assets.

6. On March 11, 2020, Petitioner requested hearing disputing the closure of FAP benefits.

7. Petitioner owns real property with a value of $▮▮▮▮▮ (Ex. 1, pp.11-13)

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.

FAP Asset Limits
FAP
$15,000 or less. BEM 400

Real Property and Mobile Home Value
FIP, SDA, RCA, SSI-Related MA Only, CDC and FAP
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

In this case, Petitioner argued at hearing that she was not over the asset limit. Petitioner argued that one parcel she did not own despite the property taxes being in her name. Petitioner argued that another parcel was unsalable for a variety of reasons. Petitioner argued that there was a lien against one property that made the property have no value.

Petitioner provided insufficient proof that she did not own the parcels in question. Petitioner provided insufficient proof that there were liens against the parcels. Petitioner provided insufficient proof that the parcels were unsalable or less valuable that the state equalized value estimates.

The Department relied on the county property tax records to determine ownership of the parcels of real estate in Petitioner's name. The Department relied on the county property tax information to determine the value of the parcels in Petitioner's name. The

Department's reliance on the county property tax information to determine ownership and value was consistent with Department policy and is proper and correct. BEM 400 The total value of the properties in Petitioner's name was $▮▮▮▮ according the double the state equalized value estimate utilized by the Department. (Ex. 1, pp.11-13) This was well over the $15,000 asset limit for the FAP program. BEM 400 Therefore, the closure for excess assets was proper and correct.

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 acted in accordance with Department policy when it closed Petitioner's FAP case due to excess assets.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/nr

Aaron McClintic
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

Rhonda Legault (Luce DHHS)
500 West McMillan St.
Newberry, MI
49868

Luce County DHHS-906EUPHearings- via electronic mail

BSC1- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

███████████
███████████████
███████ MI
███████