



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: March 25, 2022
MOAHR Docket No.: 22-000573
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 via telephone conference line on March 21, 2022. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Carrie Weeks, manager

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 December 13, 2021, Petitioner applied for FAP benefits and reported a household that included [REDACTED] [REDACTED], Petitioner's spouse (hereinafter, "Spouse").
2. On December 29, 2021, during an application interview, Petitioner reported that Spouse was a co-owner of a non-homestead located at [REDACTED], [REDACTED], MI (hereinafter, "Property").
3. As of December 29, 2021, the state equalized value for Property was \$ [REDACTED].
4. On December 29, 2021, MDHHS denied Petitioner's application for FAP benefits due to excess assets.

5. As of December 29, 2021, MDHHS had not requested verification of Property's equity value.
6. On February 1, 2022, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The 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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP 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 denial of FAP benefits. Exhibit A, pp. 29-31. Petitioner applied for FAP benefits on December 13, 2021 and reported a household that included Spouse. Exhibit A, pp. 4-13. A Notice of Case Action dated December 29, 2021, stated that Petitioner's application was denied due to excess assets. Exhibit A, pp. 25-28. The only asset factored in the denial was Property.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 (April 2020) p. 1. Assets include cash, real property, and personal property. *Id.*, pp. 1-2. To be eligible for FAP benefits, the group must have assets of \$15,00 or less. *Id.*, p. 5.

For FAP benefits, a homestead is an excludable asset. *Id.*, p. 35. A homestead is where a person lives. *Id.*, p. 34. To determine the fair market value of real property, MDHHS may double the SEV. *Id.*, pp. 32-33. The value of real property is the equity value. *Id.*, p. 33. Equity value is the fair market value minus the amount legally owed in a written lien provision. *Id.*

MDHHS became aware of Spouse's ownership of Property after Petitioner reported it during an application interview on December 29, 2021. Exhibit A, pp. 14-17. Petitioner also reported that Property is too small for her family to live, so they let family stay there if they pay the property taxes. MDHHS responded by investigating the value of property. County tax records listed an SEV for Property of \$ [REDACTED] as of 2021. Exhibit A, pp. 19-21. After doubling the SEV, MDHHS factored that Petitioner's benefit group had countable assets of \$ [REDACTED]. Exhibit A, p. 24. MDHHS denied Petitioner's application on the same date that Property was reported as an asset. MDHHS's denial may have been premature.

Spouse is listed as a co-owner of Property, along with his deceased former wife. Petitioner testified that Property is unable to be sold because of unusual circumstances. Petitioner testified that a bank attempted to foreclose on Property but took too long. Petitioner also testified that Property remains in Spouse's name, but the bank will

attempt foreclosure upon an attempted sale or arrearage payment. Petitioner also testified that the liens on Property total approximately \$210,000.

If Petitioner's testimony is accurate, then the debts on Property exceed its value and its equity value is \$0. The evidence did not establish whether Property's equity value is \$0. To establish Property's value, MDHHS would likely require proof of Property's debts.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2021) p. 3. MDHHS is to send a VCL to request verification. *Id.* MDHHS is to allow the client at least 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS made no known efforts in discovering the equity value of Property before denying Petitioner's application. MDHHS also did not send Petitioner a VCL requesting proof of liens and/or other debts on Property. The failure by MDHHS to do so justifies reversing the application denial.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's application requesting FAP benefits dated December 13, 2021; and
- (2) Reprocess Petitioner's application subject to the finding that MDHHS must consider the equity value of Property and request any required verification in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/mp



Christian Gardocki
Administrative Law Judge

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

Email Recipients:

MDHHS-Shiawassee-Hearings
D. Sweeney
M. Holden
MOAHR
BSC2

First-Class Mail Recipient:

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