



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 28, 2022  
MOAHR Docket No.: 22-000662  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

### **HEARING DECISION**

On [REDACTED], 2022, Petitioner, [REDACTED], requested a hearing to dispute the Department's decision to close his Food Assistance Program (FAP) benefits effective March 1, 2022. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 24, 2022. Petitioner appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Kristina Tripp, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 15-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Whether the Department properly closed Petitioner's Food Assistance Program (FAP) benefits effective March 1, 2022?

### **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 applied for and received FAP benefits from the Department.
2. On January 28, 2022, the Department received a phone call regarding Petitioner's FAP benefits, and the Department reviewed Petitioner's case.
3. The Department discovered that Petitioner had an asset that had not been reported to the Department: a commercial property located at [REDACTED] in [REDACTED], Michigan.

4. The Department looked up the state equalized value (SEV) of the property, and the Department found that the SEV was \$ [REDACTED].
5. The Department multiplied the SEV times two to get the fair market value of the property.
6. The Department did not consider whether the property had any encumbrances.
7. The Department determined that the fair market value of the property was \$ [REDACTED], and the Department determined that it put Petitioner over the asset limit to be eligible for FAP benefits.
8. On February 17, 2022, the Department mailed a notice of case action to Petitioner to notify Petitioner that his FAP benefits were going to be closed effective March 1, 2022, because his assets exceeded the limit to be eligible for FAP benefits.
9. On [REDACTED], 2022, Petitioner requested a hearing to dispute the Department's decision.

### **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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department must determine whether a FAP group's countable assets are less than or equal to the applicable limit at least one day during the month being tested. BEM 400 (January 1, 2022), p. 3-4. The current asset limit for FAP benefits is \$15,000. *Id.* at 5-6. When determining whether a FAP group's countable assets are within the applicable limit, the Department must use the equity value of real property. *Id.* at 32-33. The equity value is the fair market value less encumbrances. *Id.*

In this case, the Department determined that Petitioner's assets exceeded the applicable limit because Petitioner owned real property with a fair market value of \$ [REDACTED]. Petitioner is disputing the Department's determination because the Department did not consider the encumbrances on the property when the Department

determined that his assets exceeded the limit. The Department should have considered the encumbrances on the property because it is the equity value that is countable, and the equity value is the fair market value less encumbrances. Since the Department did not consider the encumbrances on the property when the Department determined that Petitioner's assets exceeded the limit, the Department did not properly determine that Petitioner's assets exceeded the limit.

The Department's decision is reversed. The Department shall redetermine whether Petitioner's countable assets are less than or equal to the applicable limit. In doing so, the Department shall consider the equity value of the property instead of the fair market value.

### **DECISION AND ORDER**

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 its policies and the applicable law when it closed Petitioner's Food Assistance Program (FAP) benefits effective March 1, 2022.

IT IS ORDERED the Department's decision is **REVERSED**. The Department shall redetermine whether Petitioner's assets are less than or equal to the applicable limit consistent with this decision. The Department shall begin to implement this decision within 10 days.

JK/mp



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**Jeffrey Kemm**  
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-Jackson-Hearings  
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