



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
49253

Date Mailed: December 16, 2022
MOAHR Docket No.: 22-005153
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 December 8, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by A.J. Evans, Assistance Payments Supervisor (APS). The Department submitted Department Exhibit 1, pgs. 1-19, that was admitted and made a part of the record.

ISSUE

Did the Department properly determine that the Petitioner was not eligible for Food Assistance Program (FAP) 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] 2022, the Petitioner applied for FAP benefits.
2. On October 14, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that FAP benefits were denied for the month of August 2022, but she was approved for FAP effective November 1, 2022, forward in the amount of \$224 per month.
3. On October 25, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that FAP benefits were denied due to the value of the Petitioner's countable assets were higher than allowed for FAP.
4. On November 7, 2022, the Department received verification of a Quitclaim Deed for the Petitioner's husband to put her name on his house.

5. On November 7, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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.

In this case, the Petitioner applied for FAP benefits on [REDACTED] 2022. On October 14, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that FAP benefits were denied for the month of August 2022, but she was approved for FAP effective November 1, 2022, forward in the amount of \$224 per month. On October 25, 2022, the Department Caseworker sent the Petitioner a Notice of Case Action, DHS 1605, that FAP benefits were denied due to the value of the Petitioner's countable assets were higher than allowed for FAP. On November 7, 2022, the Department received verification of a Quitclaim Deed for the Petitioner's husband to put her name on his house. On November 7, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 720. BEM 212.

During the hearing, the Petitioner stated that she got married on [REDACTED] 2022. She has three vehicles, which should not have put her over the \$15,000 asset limit for FAP. The APS determined since the Petitioner's name was added to her husband's home, then this would make this asset the marital home, which is an excluded asset for FAP eligibility. The Petitioner is only renting the home where she currently lives so she doesn't have excess assets from owning two homes. As a result, the Department will redetermine her eligibility for FAP.

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 Department policy when it determined that the Petitioner had excess assets for FAP eligibility.

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

The Department is ordered to begin doing the following, in accordance with department policy and consistent with this hearing decision, of initiating a redetermination of the Petitioner's eligibility for FAP retroactive to her FAP application dated [REDACTED] 2022.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/cc



Carmen G. Fahie
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

Via-Electronic Mail :

Interested Parties

MDHHS-Lenawee-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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