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GOVERNOR

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

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DIRECTOR

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██████████, MI ██████████

Date Mailed: December 19, 2022
MOAHR Docket No.: 22-005401
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 14, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Tom Ayers and Kristina Chaffee.

ISSUE

Did the Department of Health and Human Services (Department) properly determine 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. On ████████ ████████ the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 6-12.
2. Petitioner reported on her ████████ ████████ application form that she was homeless and did not have a permanent place to stay. Exhibit A, p 8.
3. Petitioner reported having an ownership interest in real property with a fair market value of \$██████████ Petitioner's Exhibit 1, p 2.
4. Petitioner reported on her ████████ ████████ application form that she was not responsible for any housing expenses. Exhibit A, p 9.
5. Department records indicate that during an eligibility interview conducted on August 26, 2022, Petitioner reported that she was currently homeless and residing in her car. Exhibit A, p 13.

6. On October 10, 2022, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of August 22, 2022. Exhibit A, p 21.
7. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the denial of Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

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 funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees, and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2022), pp 1-7.

Households with countable assets exceeding \$15,000 are not eligible for any FAP benefits. BEM 400, p 5.

Real property, which means land and objects affixed to the land such as buildings, condominiums, trees, and fences is a countable asset. BEM 400, p 33.

A homestead is where a person lives that they own. The Department will exclude the value of a person's homestead for an asset group. BEM p 35.

On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's application for FAP benefits. Petitioner reported owning an interest in real property but that she was not living on that property at that time. The Department correctly determined that the real property was not Petitioner's homestead because she was not living there, and that the value of the real property could not be excluded from Petitioner's countable assets. The hearing record supports a finding that Petitioner's interest in real property has a value exceeding

\$ [REDACTED] Therefore, the Department then denied Petitioner's [REDACTED] [REDACTED] [REDACTED] application for FAP benefits.

Petitioner testified that she reapplied in [REDACTED] of 2022, and the [REDACTED] application would be approved. Petitioner argues that her circumstances in [REDACTED] were not different than her circumstances in [REDACTED] and that she was entitled to food assistance as of August 22, 2022.

Petitioner testified that she is not currently living in the home located on her real property, but she is living on the property. Petitioner testified that her ownership interest in the real property has not changed since August 22, 2022.

The value of Petitioner's assets has not changed since August 22, 2022, but her excludable assets have changed. The hearing record supports a finding that as of August 22, 2022, Petitioner's real property did not fit the definition of her homestead, and therefore was not an excludable asset.

Petitioner testified that as part owner of the real property, the property should have been considered to be an unavailable asset because it would be a hardship to the other owner to sell the property.

Jointly owned real property is only excludable if it creates a hardship for the other owner. BEM 400, p 12.


However, there is no presumption of a hardship for the other owners of jointly owner assets, and Petitioner failed to offer evidence that selling her real property would be a hardship for the other owner.

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 determined that Petitioner's real property was available to her but not excludable as her homestead on August 22, 2022, and that she was not eligible for Food Assistance Program (FAP) benefits because her countable assets exceeded \$15,000.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings and
Rules (MOAHR)

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

