



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: March 10, 2023
MOAHR Docket No.: 23-000658
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 March 7, 2023, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Maia Elvine-Fair and Stephanie Lane.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's Food Assistance Program (FAP) benefits application?

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 ██████████ 2023, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, p 30.
2. Petitioner reported that he lives at ██████ ██████ Michigan. Exhibit A, p 32.
3. The Department received verification that Petitioner sold real property located at ██████ ██████ Michigan, on May 3, 2022, for \$200,000. Exhibit A, pp 13-21.
4. Petitioner provided verification that Petitioner is in possession of a check payable to him in the amount of \$200,714.16. Exhibit A, p 22.
5. On January 30, 2023, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits as of January 24, 2023. Exhibit A, p 8.

6. On February 8, 2023, the Department received Petitioner's request for a hearing protesting the denial of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-7.

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, 2023), pp 1-7.

On [REDACTED] 2023, the Department received Petitioner's application for FAP benefits. The Department received verification that on May 3, 2022, he sold real property that was not his home residence for \$200,714.16. Petitioner testified that he remains in possession of the check for the purchase of that property, which is payable to him.

An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p 10. An asset is countable if it is available and not excluded.

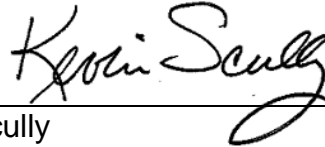
It is not disputed that Petitioner is in possession of a check for \$200,714.16 payable to him, and these funds are the proceeds of the sale of a home that is not Petitioner's home residence. Petitioner claims that this money belongs to his parents, but the hearing record supports a finding that the check is payable to him. This cash asset is "available" to him even if he chooses not to use them. Therefore, those assets are countable towards his eligibility for FAP benefits. The asset limit for FAP benefits is \$15,000. BEM 400, p 5.

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 has countable

assets exceeding \$15,000 and that he is not eligible for Food Assistance Program (FAP) benefits.

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

Via-Electronic Mail :

DHHS
Courtney Jenkins
Washtenaw County DHHS
22 Center Street
Ypsilanti, MI 48198
**MDHHS-Washtenaw-
Hearings@michigan.gov**

Interested Parties
Washtenaw County DHHS
BSC4
M. Holden
D. Sweeney
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Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]