



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: January 11, 2024
MOAHR Docket No.: 23-008445
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 3, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner’s Food Assistance Program (FAP) application 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. Petitioner was in the process of completing his divorce proceedings when he applied for FAP benefits. During this process, the marital home was sold, and proceeds split between Petitioner and his ex-wife.
2. As of July 31, 2023, Petitioner submitted verification from his attorney to the Department that as part of his divorce settlement, Petitioner would receive \$████████ and that \$60,779.50 would be deposited in a trust account to be dispersed only upon resolution of the divorce proceedings or upon order of the circuit court.
3. On October 6, 2023, Petitioner’s attorney issued checks to Petitioner’s ex-wife totaling \$30,389.78 and to Petitioner in the amount of \$████████ for payoff of the divorce proceedings in 23-103383DM.

4. Petitioner used the proceeds to pay off taxes, credit card debt, a loan for his children, and car repair.
5. On [REDACTED], 2023, the Department received Petitioner's application for FAP benefits.
6. On the same day, the Department received a Change Report confirming that Petitioner was divorced from his wife and had full custody of his two children.
7. On November 16, 2023, the Department issued a Notice of Case Action to Petitioner advising him that Petitioner's application for FAP benefits was denied as of October 23, 2023 for countable assets being higher than the amount allowed in the program.
8. On November 22, 2023, the Department received Petitioner's request for hearing disputing the denial of his FAP application due to excess assets in addition to several attachments including bank statements, screen shots of his account, and other items. The bank statement shows that for the period October 1, 2023 through October 31, 2023, Petitioner had a low balance of \$[REDACTED] and a high balance of \$[REDACTED] for his savings account, and a negative balance as his low balance and a high balance of \$[REDACTED] in his checking account.

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 Department denied Petitioner's application for FAP benefits based upon exceeding the asset limit. Pursuant to policy, the Department must determine asset eligibility which exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400 (July 2023), p. 3. The FAP asset limit is \$15,000.00 BEM 400, p. 5.

In this case, the Department failed to provide a copy of Petitioner's bank statement for October 2023, the month of Petitioner's application. However, Petitioner provided a portion of his October 2023 bank statement showing that his lowest total account balances in October 2023 was \$[REDACTED] in his savings account, and a negative balance in

his checking account. While Petitioner received a large sum of money in October 2023, policy looks to see if Petitioner had assets less than the asset limit at least one day during the month being tested. BEM 400, p. 3. Because Petitioner's assets were significantly less than the asset limit at least one day during the month of October 2023, the Department erred in denying Petitioner's application for FAP benefits.

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 denied Petitioner's FAP application.

DECISION AND ORDER

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, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reprocess Petitioner's [REDACTED] 2023 application for FAP;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/mp



Amanda M. T. Marler
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-Wayne-19-Hearings
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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