



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: January 17, 2024
MOAHR Docket No.: 23-009166
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

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 16, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Megan Sterk, Assistance Payments Supervisor.

A 16-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's request for Food Assistance Program (FAP) benefits for excessive countable 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] 2023, Petitioner applied for FAP benefits.
2. On August 4, 2016, a discretionary trust was established for the benefit of Petitioner. The co-trustees are [REDACTED] and [REDACTED].
3. The Department reviewed Petitioner's application for FAP and determined that the trust was a countable asset.

4. The Department valued the trust at \$ [REDACTED]
5. The Department determined that Petitioner's countable assets exceeded the limit to be eligible for FAP.
6. On November 7, 2023, the Department mailed a Notice of Case Action denying Petitioner's application for FAP benefits because her total countable assets exceeded the program limit.
7. On December 5, 2023, Petitioner requested a hearing to dispute the denial for FAP benefits.

CONCLUSIONS OF LAW

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 asset limit for FAP is \$15,000. BEM 400 (January 1, 2024), p. 5. Countable assets cannot exceed the applicable program limit. *Id.* at 2. An asset is countable if it is available and not excluded. *Id.*

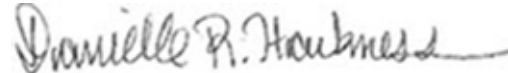
In this case, the asset at issue is a trust. Whether a trust is countable is determined by whether the trust is available. For a trust to be considered unavailable, the trustee must be a court or an institution, corporation, or organization not under the direction or ownership of any asset group member, or an individual appointed by the court. *Id.* at p. 30-31. The co-trustees of the trust are [REDACTED] [REDACTED] and [REDACTED] [REDACTED] [REDACTED] so Petitioner's trust cannot be considered unavailable. Thus, Petitioner's trust is an available asset and must be counted.

Based on the evidence presented, Petitioner failed to establish that the Department improperly determined that the trust is a countable asset. Therefore, the Department properly denied Petitioner's application for FAP benefits.

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 acted in accordance with its policies and the applicable law when it denied Petitioner's application for FAP benefits.

IT IS ORDERED, the Department's decision is **AFFIRMED**.



DH/nr

Danielle R. Harkness
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 :

DHHS
Megan Sterk
Allegan County DHHS
3255 122nd Ave Ste 300
Allegan, MI 49010
**MDHHS-Allegan-
Hearings@michigan.gov**

Interested Parties
Allegan County DHHS
BSC3
M. Holden
N. Denson-Sogbaka
B. Cabanaw
MOAHR

Via-First Class Mail :

Petitioner

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