



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

Date Mailed: January 31, 2024
MOAHR Docket No.: 23-009841
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; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 30, 2024. Petitioner, [REDACTED] [REDACTED] appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department), had Kimberly Reed, Lead Worker, appear as its representative. Petitioner's husband, Joseph Falsetta, and Administrative Law Judge Alisyn Crawford appeared as observers of the hearing.

A 73-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 Food Assistance Program (FAP) application after determining that Petitioner was subject to a penalty period through July 31, 2024, for a divestment?

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] [REDACTED] 2023, the Department received a MI Bridges Application for cash and FAP benefits from Petitioner.
2. On September 12, 2023, during a telephone interview with the Department, Petitioner reported that she had recently transferred property that had caught on fire for a travel trailer and \$10,000.00 in cash.

3. The Department determined that the total value of the transferred property was \$126,000.00, and the travel trailer that Petitioner received from the sale proceeds was estimated to be worth between \$5,000.00 and \$7,500.00.
4. Petitioner reported to the Department that the realtor who provided the property valuation advised her that the property may be worth \$20,000.00 because the house that was located on the property caught fire.
5. On September 13, 2023, Petitioner submitted a copy of an August 23, 2023, Warranty Deed confirming that ownership of the property had transferred.
6. The Department reviewed Petitioner's case and determined that Petitioner was subject to a 12-month divestment penalty period through July 31, 2024, because she transferred an asset for less than fair market value within 3 months prior to the date of her FAP application.
7. On September 22, 2023, the Department mailed a Notice of Case Action to Petitioner, notifying her that she was subject to a 12-month divestment penalty period through July 31, 2024, because she transferred an asset for less than fair market value.
8. On December 20, 2023, Petitioner requested a hearing to dispute the Department's denial of her FAP application.

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 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 determined that Petitioner transferred property valued at \$126,000.00 for less than fair market value because she received \$10,000.00 in cash and a travel trailer worth between \$5,000.00 and \$7,500.00 from the proceeds of the sale. Petitioner disputes the Department's determination and argues that she was advised by a realtor that the property was worth \$20,000.00 after a house fire occurred on the property. Petitioner stated that she has attempted to get documentation from the realtor to verify this on numerous occasions but has been unable to get written verification.

The issue here is whether the Department properly denied petitioner's FAP application when it determined that Petitioner is subject to a 12-month disqualification period. A divestment is the transfer of assets for less than fair market value to qualify for program benefits or remain eligible for program benefits. BEM 406 (January 1, 2022), p. 1. Divestment occurs when an asset group member knowingly transfers assets during the 3 months before the application date or knowingly transfers assets after the household is determined eligible for benefits. *Id.*

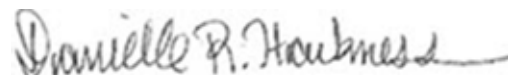
It is undisputed that Petitioner knowingly transferred property on [REDACTED] 2023, and applied for FAP benefits on that same date. The Department established that based on the information provided by Petitioner, the property transferred was valued at \$126,000.00 and Petitioner received \$10,000.00 in cash and a travel trailer valued between \$5,000.00 and \$7,500.00 from the proceeds of the sale. The proceeds that Petitioner received were \$108,500.00 to \$111,000.00 less than the fair market value of the property. The Department properly determined that because the calculated amount divested was over \$5,000.00 that Petitioner must be disqualified for 12 months beginning from the date of Petitioner's [REDACTED] 2023, FAP application.

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 FAP application and determined that Petitioner was subject to a divestment penalty period through July 31, 2024.

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
Kimberly Reed
Montcalm County DHHS
609 North State Street
Stanton, MI 48888
**MDHHS-Montcalm-
Hearings@michigan.gov**

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

Via-First Class Mail :

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