



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]
[REDACTED], MI [REDACTED]

Date Mailed: February 23, 2024
MOAHR Docket No.: 23-009998
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 February 21, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Patty Marx, Family Independence Manager/Hearing Coordinator.

A 28-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case due to excess 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 November 28, 2023, Petitioner reported to the Department that she had an annuity.
2. The Department determined that the annuity was a countable asset.
3. The Department concluded that the annuity had a value of \$ [REDACTED]

4. The Department determined that Petitioner's countable assets exceeded the asset limit to be eligible for FAP.
5. On December 15, 2023, the Department mailed a Notice of Case Action closing Petitioner's FAP benefit case because her total countable assets exceeded the program limit.
6. On December 21, 2023, Petitioner requested a hearing to dispute the closure of her FAP case.

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 benefits is \$15,000.00. 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.*

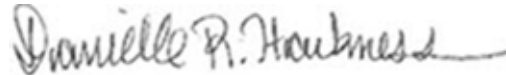
In this case, the Department received verification that Petitioner's annuity has a value of \$ [REDACTED]. Therefore, the Department determined that Petitioner's FAP case should be closed because Petitioner's annuity exceeded the \$15,000.00 asset limit for FAP. Petitioner asserted that she only receives \$ [REDACTED] per year from this annuity, so her FAP case should remain open. The Department indicated that Petitioner has not submitted documentation to show that the annuity has been annuitized (converted into an elected schedule of payments). However, if this documentation is received, the Department will redetermine Petitioner's eligibility for FAP benefits.

Based on the evidence presented, Petitioner failed to establish that the Department improperly determined that her annuity is a countable asset that exceeded the \$15,000.00 FAP asset limit. Therefore, the Department properly closed Petitioner's FAP benefit case. Petitioner is encouraged to provide a copy of the annuitization contract with the information as stated by the Department (see Exhibit A, p. 22).

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 properly closed Petitioner's FAP case due to excess assets.

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
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Interested Parties
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MOAHR

Via-First Class Mail :

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