



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: February 16, 2024
MOAHR Docket No.: 24-000418
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 14, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Ryan Bloye, Case Manager, and Becky Sraser, Family Independence Manager.

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 January 4, 2024, information was reported to the Department that Petitioner inherited real property.
2. The Department determined that the inherited property was a countable asset.
3. The Department concluded that the real property amount for the inherited property had a value of \$15,838.47.

4. The Department determined that Petitioner's countable assets exceeded the asset limit to be eligible for FAP.
5. On January 4, 2024, 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 January 12, 2024, 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 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 real property. Real property is land and object affixed to the land such as buildings. *Id.* at p. 33. The asset is a home that is affixed to land. Therefore, the asset is real property.

To determine the fair market value of real property, the state equalized value (SEV) on current property tax records is multiplied by 2. *Id.* Here, the SEV of the property is \$45,060.00. This amount was multiplied by 2 resulting in a fair market value (FMV) of \$90,120.00 ($\$45,060.00 \times 2 = \$90,120.00$). The FMV minus the amount legally owed in a written lien provision is the equity value. *Id.* According to a mortgage statement submitted by Petitioner, the amount legally owed for the real property is \$72,753.16. Therefore, the equity value is \$17,366.84 ($\$90,120.00 - 72,753.16 = \$17,366.84$). Ms. Sraser indicated that the Department used a higher amount owed in calculating the real property amount, resulting in the Department concluding that the real property amount is \$15,838.47. However, this error benefits Petitioner as the real property amount determined by the Department is lower than the actual real property amount. Because the real property amount exceeds the \$15,000.00 asset limit, the Department properly closed Petitioner's FAP benefit case.

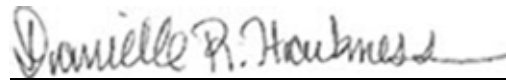
Petitioner asserted that she has 4 children and that it is a hardship for her family to have her FAP benefit case closed because she is just over the asset limit. However, no evidence was provided by Petitioner to show that the Department's decision was contrary to the law and Department policy. Administrative Law Judges have no authority to overrule statutes, to overrule promulgated regulations, or to overrule or make exceptions to Department policy. (Delegation of Authority, signed by the Michigan Department of Health and Human Services Director).

Based on the evidence presented, Petitioner failed to establish that the Department improperly determined that her real property is a countable asset. Therefore, the Department properly closed Petitioner's FAP benefit case.

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

Kimberly Kornoelje
Kent County DHHS
121 Martin Luther King Jr St SE
Grand Rapids, MI 49507

**MDHHS-Kent-
Hearings@michigan.gov**

Interested Parties

Kent County DHHS
BSC3

M. Holden

N. Denson-Sogbaka

B. Cabanaw

MOAHR

Via-First Class Mail :

Petitioner

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