



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

THOMAS AUGUSTINE
99 HARRIS AVE
BATTLE CREEK, MI 49037

Date Mailed: January 24, 2023
MOAHR Docket No.: 22-006096
Agency No.: 113946708
Petitioner: Thomas Augustine

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 19, 2023, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Lianne Scupholm.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) benefits?

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 10, 2022, the Department received Petitioner's application for State Emergency Relief (SER) assistance.
2. Petitioner is listed as co-owner of a home located at 134 Barney Boulevard, which has a state equalized value of \$38,137. Exhibit A, p 16.
3. Petitioner is listed as co-owner of a home located at 99 Harris Avenue, which has a state equalized value of \$18,950. Exhibit A, p 18.
4. On November 14, 2022, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits effective December 1, 2022. Exhibit A, p 20.
5. On December 13, 2022, the Department received Petitioner's request for a hearing protesting the closure of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees, and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2022), pp 1-7.

Petitioner was an ongoing FAP recipient when he filed an application for SER assistance. While processing Petitioner's application for SER assistance, the Department discovered that Petitioner has an ownership interest in two homes. The value of one of those homes can be excluded if it is his principal homestead residence if he is living there. BEM 400, p 35.

Petitioner testified that the home located at 134 Barney Boulevard is not owned by him but that it is held by a trust. Petitioner failed to offer any evidence of a trust or that he does not have the legal right to use or dispose of the real property located at 134 Barney Boulevard.

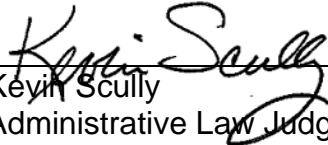
The hearing record supports a finding that Petitioner has an ownership interest in the property located at 134 Barney Boulevard and that this countable asset has a value exceeding \$15,000, which makes him ineligible for any FAP benefits. BEM 400, p 5.

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 Department policy when it determined that Petitioner is not eligible for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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

Kristina Etheridge
Calhoun County DHHS
190 East Michigan
Battle Creek, MI 49016
**MDHHS-Calhoun-
Hearings@michigan.gov**

Interested Parties

Calhoun County DHHS
BSC3
M. Holden
D. Sweeney
T. Bair
E. Holzhausen
MOAHR

Via-First Class Mail :

Petitioner

Thomas Augustine
99 Harris Ave
Battle Creek, MI 49037