



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: October 27, 2023
MOAHR Docket No.: 23-006336
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 26, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application?

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 September █ 2023, Petitioner submitted an application for FAP benefits (Exhibit A, pp. 8-14).
2. On September █ 2023, the Department sent Petitioner a Notice of Case Action informing him that his application for FAP benefits was denied due to excess assets (Exhibit A, pp. 16-19).
3. On September 19, 2023, Petitioner submitted a request for hearing.

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) [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, Petitioner submitted an application for FAP benefits. The Department determined that Petitioner had excess assets. The Department discovered that Petitioner owns two homes, one of which he uses as a rental property. The Department determined that the value of Petitioner's second home exceeded the asset limit for FAP benefits.

When determining asset eligibility, the Department will prospectively use the asset group's assets from the benefit month. BEM 400 (April 2020), p. 3. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For FAP cases, the asset limit is \$15,000 or less. BEM 400, p. 5. A secondary homestead is considered when determining FAP eligibility. BEM 400, pp. 25-34.

At the hearing, the Department testified that Petitioner self-reported that his rental property was valued at \$██████████. At the hearing, Petitioner denied providing that information to the Department. The Department testified that upon review, it was determined that Petitioner's home was actually valued at \$██████████. Petitioner did not know the value of his rental property but did not dispute it was worth more than \$15,000. Petitioner primarily argued that his income was under the limit for eligibility.

Per policy, only one home can be excluded from the asset total when determining eligibility. Therefore, the value of Petitioner's second home is a countable asset. As Petitioner's second home exceeds the asset limit of \$15,000, he is not eligible for FAP benefits. Thus, the Department acted in accordance with policy when it denied Petitioner's 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 Department policy when it denied Petitioner's FAP application. Accordingly, the Department's decision is **AFFIRMED**.

EM/dm



Ellen McLemore
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 :

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Tara Roland 82-17
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Via-First Class Mail :

Petitioner

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