



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: April 3, 2024
MOAHR Docket No.: 24-001700
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 March 21, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Emily Camp and Dana Driscoll. Department Exhibit 1, pp. 1-29 was received and admitted.

ISSUE

Did the Department properly process Petitioner's Special Needs Trust documents when considering her eligibility for the Food Assistance Program (FAP)?

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 ██████████, 2024, Petitioner applied for FAP.
2. On January 9, 2024, a verification checklist was sent to Petitioner requesting verification of trust assets.
3. On January 26, 2024, a verification checklist was sent to Petitioner requesting a copy of the full trust agreement.

4. On February 5, 2024, Petitioner submitted a letter dated April 26, 2016, that referenced a Special Needs Trust for [REDACTED]. This submission did not include the complete Special Needs Trust documents.
5. On February 6, 2024, a Notice of Case Action was sent to Petitioner informing her that her FAP application was denied for failing to verify assets.
6. On February 16, 2024, Petitioner requested a hearing disputing the denial of FAP.
7. Petitioner submitted complete Special Needs Trust documents in March 2024.
8. The Department's Trust Department reviewed the Special Needs Trust documents and requested additional information about the Special Needs Trust.
9. At hearing, the Department stated that a Verification Checklist would be issued to Petitioner requesting further information about the Special Needs Trust. The Department stated at hearing that if the Special Needs Trust is found to be excluded or non-countable then Petitioner's FAP application could be reinstated going back to the date of 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 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.

FAP Trust Policy

FAP

The trust principal and any income retained by the trust are considered unavailable if all the following conditions apply:

- The trust arrangement is not likely to end during the benefit period.
- No asset group member has the power to revoke the trust or change the name of the beneficiary during the benefit period.
- The trustee administering the trust is one of the following: A court or an institution, corporation, or organization not under the direction or ownership of any asset group member. An individual appointed by the court who is restricted by the court to use the funds solely for the benefit of the beneficiary.

- Investments made on behalf of the trust do not directly involve or benefit any business or corporation under the control or direction of an asset group member.
- The funds in the irrevocable trust are one of the following: Established from the asset group's own funds and the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of the beneficiary. Established from funds of a person who is not a member of the asset group. A homestead which continues to be the primary residence of the FAP group is excluded, even if the title is placed in a revocable/irrevocable trust. Referrals to Trust and Annuities Unit All trusts and annuities must be evaluated by the Trust and Annuities Unit. BEM 400


In this case, on [REDACTED] 2024, Petitioner initially submitted incomplete Special Needs Trust documents. Petitioner subsequently submitted complete Special Needs Trust documents in March 2024. The Department sent those documents to their trust department for review. After reviewing the trust documents the trust department requested further information, that was done a few days prior to hearing. The Department worker at hearing stated that a Verification Checklist would be sent to Petitioner explaining what further information was needed. The Department worker stated that if it was verified that the Special Needs Trust was non-countable or excluded then Petitioner's FAP application could be reinstated going back to the date of application and benefits would be approved if she meets all other eligibility requirements. That is the appropriate action at this time.

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 processed Petitioner's Special Needs Trust documents.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/cc



Aaron McClintic
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 :

Interested Parties

MDHHS-Kent-Hearings
BSC3-HearingDecisions
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

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