



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 23, 2018  
MAHS Docket No.: 18-002730  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 April 19, 2018, from Detroit, Michigan. The Petitioner was self-represented and appeared with her mother [REDACTED] as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Supervisor.

**ISSUE**

Did the Department properly deny Petitioner 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. Petitioner was an ongoing FAP recipient.
2. In January 2018, her FAP case was closed for failure to return a Redetermination.
3. Petitioner believes she submitted the Redetermination but is uncertain of the exact date when it was returned.
4. On February 15, 2018, Petitioner reapplied for FAP benefits.
5. On February 15, 2018, the Department issued a Verification Checklist (VCL) seeking proof of her rent, checking accounts, wages, work study, and savings accounts by February 26, 2018.

6. On February 16, 2018, Petitioner returned all required proofs including proof of a savings and checking account with [REDACTED] as well as two savings and two checking accounts with [REDACTED].
7. On February 22, 2018, the Department issued a Notice of Case Action holding Petitioner ineligible for FAP benefits from February 15, 2018, ongoing due to excess assets.
8. On March 8, 2018, the Department received Petitioner's request for hearing disputing the denial of FAP benefits.

### **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.

Petitioner disputed the closure of her FAP case in January 2018; however, the closure of her FAP case in January 2018 was not addressed by her March 8, 2018, hearing request. Her March hearing request was dedicated to the issue of assets, the reason for her denial in February 2018. Since Petitioner did not address the issue of the closure from January 2018, the Department was unable to prepare for the hearing on this issue. Therefore, this issue is not addressed by this decision, but it is noted that Petitioner was unable to identify the specific date on which she submitted her Redetermination to the Department.

Turning to Petitioner's second argument, she disputes the denial of FAP benefits because at least two of the bank accounts reviewed are accounts jointly held with her mother and husband. The accounts are jointly held for Petitioner's mother's benefit. Petitioner assists her mother with home maintenance and upkeep because her mother travels often. As a result, Petitioner was given access to her mother's account so that Petitioner could pay workers or purchase items for her mother's home. Any money deposited by Petitioner or her husband to the account was repayment of a debt to Petitioner's money. Any money withdrawn from the account by Petitioner or her husband was for her mother's home.

Policy provides that individuals who apply for FAP benefits cannot have more than \$5,000 in assets. BEM 400 (January 2018), p. 5. Groups with a Senior, Disabled, or Disabled Veteran (SDV) group member have an asset limit of \$5,000 or less if they have income over 200% of the federal poverty level. BEM 400, p. 6. No evidence was presented that Petitioner or her group member were seniors, disabled, or disabled veteran members.

An asset must be available to be countable. BEM 400, p. 10. Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.* Availability can be affected by joint ownership. *Id.* Jointly owned assets are assets that have more than one owner. BEM 400, p. 11. An asset is unavailable, and not considered in the asset calculation, if all of the following are true: an owner cannot sell or spend their share of an asset without another owner's consent, the other owner is not in the asset group, and the other owner refuses consent. *Id.* In cash situations, including checking and savings accounts, the entire amount of the asset is counted **unless** the person claims and verifies a different ownership. BEM 500, pp. 12, 15. If a different ownership is claimed, then each owner's share is the amount they own.

The first and third element of unavailability is satisfied because Petitioner and her mother made it clear that the money in the accounts at [REDACTED], which list Petitioner's mother as a joint owner, is not money that the Petitioner is free to use for any reason. If Petitioner is going to spend money from the accounts at [REDACTED], Petitioner must be using the money for the benefit of her mother and for no other reason. The second element of the availability test is also met because Petitioner's mother is not part of the asset group. The only members of that group are Petitioner, her husband, and her two children as listed by the application for benefits. In addition, because the accounts are jointly held, both Petitioner and her mother have affirmatively stated that while Petitioner's name appears on the account, the intent was not to give her ownership of the assets, but instead to give her the ability to manage the assets on behalf of her mother. Having met all three of the unavailability factors and addressed the ownership interests, the Department should not consider any of the assets from the Honor Bank accounts.

After exclusion of the [REDACTED] accounts, Petitioner and her asset group are left with two checking accounts totaling \$[REDACTED] and \$[REDACTED] as well as two savings accounts totaling \$[REDACTED] and \$[REDACTED] respectively. These assets total \$[REDACTED]. No other evidence of additional assets was presented for the hearing. Therefore, Petitioner's assets are less than the asset limit of \$5,000.

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 did not act in accordance with Department policy when it denied Petitioner's FAP application from February 15, 2018.

**DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and recalculate Petitioner's application for FAP benefits from February 15, 2018, ongoing;
2. If Petitioner is otherwise eligible for FAP benefits, issue supplements from February 15, 2018 ongoing for benefits not previously issued in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



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**Amanda M. T. Marler**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
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