



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: May 29, 2019
MOAHR Docket No.: 19-004245
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 May 23, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator. Department Exhibit 1, pp. 1-12 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits due to excess 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. Petitioner was a recipient of FAP benefits.
2. On April 18, 2019, Notice of Case Action was sent to Petitioner informing her that her FAP benefits would close effective May 1, 2019, because she allegedly had access to a bank account with a balance of \$ [REDACTED] (Ex.1, p.11)
3. Petitioner's name is on her sister's bank accounts with [REDACTED] but she does not have checks or a debit card for those accounts and has not made any deposits or withdrawals.
4. Petitioner's ownership interest in her sister's bank accounts is [REDACTED] percent and [REDACTED] dollars.

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.

Joint Cash and Retirement Plans

FIP, RCA, SDA, G2U, G2C, RMA, SSI-Related MA Only, CDC and FAP

This section applies to the types of assets listed under **CASH and RETIREMENT PLANS** in this item.

Count the entire amount **unless** the person claims and verifies a different ownership. Then, each owner's share is the amount they own. BEM 400, p.13(April 2019)

FAP Asset Limits

FAP

\$5,000 or less. BEM 400 p.5

In this case, Petitioner credibly testified that her name is on her sister's bank accounts for convenience but that she does not have checks in her name or a debit card for the accounts. Petitioner also provided a letter from a Member Relations Representative and that verifies she is not the primary member on the accounts in question. (Ex.1, p.7) Petitioner credibly testified that she has not made any deposits or withdrawals in these accounts. Petitioner is a joint owner on the accounts, but her percentage of ownership is [REDACTED] percent because she has not made any deposits or withdrawals. BEM 400 Therefore, since Petitioner's ownership interest is [REDACTED] dollars then she is not over the asset limit and the closure for excess assets was improper and incorrect. BEM 400

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FAP case due to excess assets.

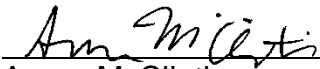
DECISION AND ORDER

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 Petitioner's FAP benefits going back to the date closure.
2. Issue a supplement for any missed benefits.

AM/nr



Aaron McClintic
Administrative Law Judge
for Robert Gordon, 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 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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Tara Roland 82-17
8655 Greenfield
Detroit, MI
48228

Wayne 17 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

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