



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: November 15, 2016  
MAHS Docket No.: 16-015040  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### **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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 9, 2016, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Eligibility Specialist [REDACTED] and Family Independence Manager [REDACTED]. Department's Exhibit A, pages 1-31 was admitted into evidence.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility on September 28, 2016?

### **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 recipient of Food Assistance Program (FAP) benefits.
2. On February 1, 2016, Petitioner was eligible for a gross Supplemental Security Income (SSI) payment of \$ [REDACTED]. The Social Security Administration withholds \$ [REDACTED] due to an overpayment so Petitioner receives a recurring payment of \$ [REDACTED] at the beginning of each month. Department Exhibit A pages 9-11.
3. In September 2016, Petitioner received \$ [REDACTED] of Food Assistance Program (FAP) benefits. His Food Assistance Program (FAP) financial eligibility budget contained: \$ [REDACTED] in unearned income (\$ [REDACTED] SSI payment + \$ [REDACTED] State SSI payment); a \$ [REDACTED]

standard deduction for a benefit group of 1; and a \$█ heat and utility standard. Department Exhibit A pages 20-23.

4. In October 2016, Petitioner received \$█ of Food Assistance Program (FAP) benefits. His Food Assistance Program (FAP) financial eligibility budget contained: \$█ in unearned income (\$█ SSI payment + \$█ State SSI payment); a \$█ standard deduction for a benefit group of 1; and a \$█ heat and utility standard. Department Exhibit A pages 24-27.
5. On September 28, 2016, Petitioner was sent a Notice of Case Action (DHHS-1605) which stated his Food Assistance Program (FAP) benefit was decreasing to \$█ per month beginning November 1, 2016. The Food Assistance Program (FAP) financial eligibility budget used to determine that amount contained: \$█ in unearned income (\$█ gross SSI eligibility + \$█ State SSI payment); a \$█ standard deduction for a benefit group of 1; and a \$█ heat and utility standard. Department Exhibit A pages 28-31.
6. On October 3, 2016, Petitioner made a verbal hearing request.

### 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.

**Bridges Eligibility Manual (BEM) 503 Income, Unearned**, at pages 31 & 32, states:

#### SUPPLEMENTAL SECURITY INCOME (SSI)

##### All Types of Assistance

SSI is a benefit administered by the Social Security Administration. SSI is a means-tested program that can be received based on age, disability or blindness.

Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds. The amount paid by the state and the payment process varies by living arrangement; see BEM 660, STATE SSI PAYMENT.

For SSI recipients in independent living or household of another, refer to Current SSA-Issued SSI, Retroactive SSA-Issued SSI and State SSI Payments below. For SSI recipients in other living arrangements, refer to just Current SSA-Issued SSI and Retroactive SSA-Issued SSI.

Current SSA-Issued SSI

SDA, CDC, and FAP Only

Bridges counts the gross amount of current SSA-issued SSI as unearned income. SSI amounts withheld to recoup overpayments due to an intentional program violation (IPV) as defined below are also included in the gross amount.

IPV means there was a finding of fraud or an agreement to repay in lieu of prosecution. Bridges counts recouped SSI only if IPV information is volunteered by the SSI recipient or other reliable source. Do not initiate any contacts; see BEM 500, Reduced Benefits Due to Overpayment.

**Bridges Eligibility Manual (BEM) 500 Income Overview**, under Gross Income provides:

Reduced Benefits Due to Overpayment

Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. These amounts are excluded as income.

Exceptions: The following overpayment amounts **must** be included in gross income:

Any portion of an overpayment (that is normally countable) if the original payment was excluded income when received.

Cash assistance recoupment amounts due to Intentional Program Violation (IPV) are automatically counted for FAP in Bridges.

Supplemental Security Income (SSI) amounts recouped due to IPV are included in countable gross income for cash assistance programs and FAP.

IPV means there is a finding of fraud or an agreement to repay in lieu of prosecution. Do not exclude recouped SSI when IPV information is volunteered by the SSI recipient or other reliable source. Do not initiate any contacts to obtain this information.

In this case, the BRIDGES computer program incorrectly included the Social Security Administration's \$█ overpayment deduction in Petitioner's gross SSI amount. 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 determined Petitioner's Food Assistance Program (FAP) eligibility on September 28, 2016.

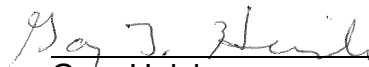
**DECISION AND ORDER**

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. Re-determine Petitioner's Food Assistance Program (FAP) eligibility from November 1, 2016 ongoing in accordance with Department policy and issue a current notice of his Food Assistance Program (FAP) eligibility.

GH/nr



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Gary Heisler  
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]

[REDACTED]

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]