



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: August 30, 2017
MAHS Docket No.: 17-009866
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 August 29, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Recoupment Specialist, [REDACTED], FIM, also appeared for the Department. Department Exhibit 1, pp. 1-72 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance (OI) of 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. On July 12, 2017, Notice of Overissuance was sent to Petitioner alleging that he received an overissuance of FAP benefits in the amount of \$ [REDACTED] due to agency error.
2. On July 24, 2017, Petitioner requested hearing disputing the overissuance determination.

- Household members [REDACTED] had RSDI income that was not budgeted from February 1, 2017, through June 30, 2017.

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.

Overissuance

When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the OI. BAM 700, p. 1.

AGENCY ERROR EXCEPTIONS

FIP, SDA, CDC and FAP

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705 p.1

In this case, on December 27, 2016, Petitioner submitted a change report disclosing RSDI income for household members [REDACTED]. (Petitioner Exhibit 1, p.25) The Department failed to process this submission. From February 1, 2017, through June 30, 2017, Petitioner received \$ [REDACTED] in FAP benefits that she was not entitled to due to agency error. Since the overissuance resulted due to agency error Department policy requires that the Department recoup the overissuance if it is over \$250. BAM 705

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling \$ [REDACTED] due to Department error.

Petitioner expressed frustration that she is required to pay back money that resulted from an error that was not her fault. Petitioner explained that paying back the money would put her in difficult financial circumstances. Petitioner's frustration is understandable but Department policy is clear that overissuances over \$250 that resulted from agency error can be recouped. BAM 705

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

AM/md



Aaron McClintic

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]