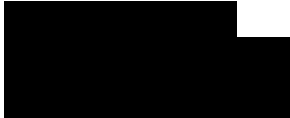




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 15, 2017
MAHS Docket No.: 17-010604
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and with Mich Admin Code, R 400.3130 and 400.3178. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Overissuance Specialist.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) and Child Development and Care due to Agency error?

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 August 12, 2016, Petitioner applied for FAP and CDC for a household group composition of 4. Department Exhibit 1, pgs. 75-96.
2. The Petitioner was approved for FAP and CDC where she did report the income for her significant other, J. N., but the income was not counted by the Department. Department Exhibit 1, pgs. 59-63.
3. The Department alleges Petitioner received a FAP and CDC OI during the period August 21, 2016, through July 8, 2017, due to Department's error. Department Exhibit 1, pgs. 17-23.

4. The Department alleges that Petitioner received an OI of \$ [REDACTED] in CDC benefits and \$ [REDACTED] in FAP benefits that is still due and owing to the Department. Department Exhibit 1, pgs. 24-51.
5. On July 25, 2017, the Overissuance Specialist sent Petitioner a Notice of Overissuance, DHS 4358, that she had received \$ [REDACTED] in CDC benefits because J. N. earned income was reported, but not included in CDC budget. Department Exhibit 1, pgs. 10-15.
6. On July 25, 2017, the Overissuance Specialist sent Petitioner a Notice of Overissuance, DHS 4358, that she had received \$ [REDACTED] in FAP benefits because J. N. earned income was reported, but not included in FAP budget. Department Exhibit 1, pgs. 5-9.
7. On August 2, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner applied for FAP and CDC for a household group composition of four on August 12, 2016. Department Exhibit 1, pgs. 75-96. Petitioner was approved for FAP and CDC where she did report the income for her significant other, J. N., but the income was not counted by the Department. Department Exhibit 1, pgs. 59-63. The Department alleges Petitioner received a FAP and CDC OI during the period August 21, 2016, through July 8, 2017, due to Department's error. Department Exhibit 1, pgs. 17-23.

The Department alleges that Petitioner received an OI of \$ [REDACTED] in CDC benefits and \$ [REDACTED] in FAP benefits that is still due and owing to the Department. Department Exhibit 1, pgs. 24-51. On July 25, 2017, the Overissuance Specialist sent Petitioner a Notice of Overissuance, DHS 4358, that she had received \$ [REDACTED] in CDC benefits because J. N. earned income was reported, but not included in CDC budget. Department Exhibit 1, pgs. 10-15. On July 25, 2017, the Overissuance Specialist sent Petitioner a Notice of Overissuance, DHS 4358, that she had received \$ [REDACTED] in FAP benefits because J. N. earned income was reported, but not included in FAP budget. Department Exhibit 1, pgs. 5-9. On August 2, 2017, the Department received a hearing request from Petitioner, contesting the Department's negative action. BAM 105, 115, 130, 200, and 705. BEM 210, 212, 500, 550, 554, 556, and 703. RFT 250 and 270.

During the hearing, Petitioner stated that she tried to comply with all of the verification requests by the Department. The Overissuance Specialist stated the overissuance was due to Department error because her significant other's income was not counted. However, they had a child in common that was born in February 2016 requiring his income to be counted.

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

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a FAP and CDC OI of \$ [REDACTED] in accordance with Department policy.



CF/md

Carmen G. Fahie
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]

Petitioner

[REDACTED]