



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: September 28, 2017  
MAHS Docket No.: 17-011070  
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 September 25, 2017, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Recoupment Specialist [REDACTED] [REDACTED]

**ISSUE**

Did Petitioner receive a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program benefits from October 1, 2015 to January 31, 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 a recipient of Food Assistance Program benefits from the Department from October 1, 2015 to January 31, 2016.
2. October 1, 2015 to January 31, 2016 has been properly determined as the over-issuance period caused by this Agency Error.
3. Due to Agency Error of not including Petitioner's Unemployment Compensation benefits in her Food Assistance Program (FAP) financial eligibility budget, Petitioner received a \$ [REDACTED] over-issuance of Food Assistance Program benefits during the over-issuance period.
4. On August 3, 2017, Petitioner was sent a Notice of Over-Issuance (DHS-4358).

5. On August 11, 2017, Petitioner submitted a hearing request.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

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 to .3011.

Bridges Administration Manual (BAM) 725 Collection Actions states that when the client group or CDC provider receives more benefits than entitled to receive, DHS must attempt to recoup the over-issuance. Additionally, anyone who was an eligible, disqualified, or other adult in the program group at the time the over-issuance occurred is responsible for repayment of the over-issuance.

DHHS requests a debt collection hearing when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHHS must request hearings when the program is inactive.

Petitioner had signed and submitted an application to the Department on August 4, 2015, prior to the alleged over-issuance period. That application is sufficient to establish that Petitioner was provided the recoupment responsibilities of receiving assistance.

During this hearing Petitioner testified that it was not her mistake so she should not have to pay this back. Petitioner is incorrect, her signature of an application certified notice of the recoupment responsibilities of receiving assistance.

#### **Over-issuance Period** **Agency Error**

BAM 705 Agency Error Over-Issuances, states that the over-issuance period begins the first month (or first pay period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the over-issuance was referred to the RS, whichever 12 month period is later.

To determine the first month of the over-issuance period for changes reported timely and not acted on, Bridges allows time for:

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period; see BAM 220.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

The error which caused this over-issuance occurred on August 29, 2015 when Petitioner received her first Unemployment Compensation benefits check. The Department did not get the unearned income in Petitioner's Food Assistance Program (FAP) financial eligibility budget. Applying the over-issuance period definition, the over-issuance period began October 1, 2015.

**Over-issuance Amount**

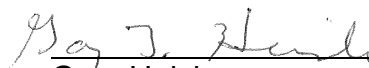
BAM 705 Agency Error Over-Issuances and BAM 715 Client/CDC Provider Error Over-Issuances, states the over-issuance amount is the benefit amount the group actually received minus the amount the group was eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued a total of \$ [REDACTED] in Food Assistance Program (FAP) benefits to Petitioner during the over-issuance period. The over-issuance budgets submitted by the Department were reviewed and found to be correct. The over-issuance budgets show that Petitioner was only eligible for \$ [REDACTED] of Food Assistance Program (FAP) benefits during the over-issuance period. Petitioner received a \$ [REDACTED] over-issuance of Food Assistance Program (FAP) benefits.

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 establish that Petitioner received a \$ [REDACTED] Agency Error over-issuance of Food Assistance Program.

**DECISION AND ORDER**

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

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]

**Petitioner**

[REDACTED]