



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: July 7, 2017
MAHS Docket No.: 17-005972
Agency No.: ██████████
Petitioner: ██████████
Respondent: MDHHS

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 8, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. ██████████
██████████ Petitioner's spouse, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by ██████████, hearing facilitator, and ██████████ ██████████, recoupment specialist. ██████████ ██████████, Petitioner's daughter, participated as an ██████████ translator.

ISSUE

The issue is whether MDHHS properly established 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. Petitioner was an ongoing FAP recipient.
2. Petitioner was an ongoing recipient of subsidized housing.
3. From November 2015 through February 2016, Petitioner was responsible for payment of \$██████ /month in rent.
4. From November 2015 through February 2016, MDHHS factored Petitioner's rent responsibility as \$██████ /month.

5. The miscalculation of rent was MDHHS' error.
6. From November 2015 through February 2016, Petitioner received an OI of \$ [REDACTED] in FAP benefits.
7. On April 25, 2017, MDHHS mailed Petitioner a Notice of Overissuance informing Petitioner of an OI of \$ [REDACTED] in FAP benefits from November 2015 through February 2016.
8. On May 11, 2017, Petitioner requested a hearing to dispute the OI of FAP benefits.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute MDHHS' attempt to establish an overissuance of FAP benefits. MDHHS presented a Notice of Overissuance (Exhibit 1, pp. 2-3) dated April 25, 2017. The notice informed Petitioner of an alleged OI of \$ [REDACTED] in FAP benefits from November 2015 through February 2016 due to Petitioner's error. MDHHS alleged the OI was caused by incorrectly factoring Petitioner's monthly subsidized housing obligation.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (January 2016), p. 1. An overissuance [bold lettering removed] is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. *Id.* Recoupment [bold lettering removed] is a MDHHS action to identify and recover a benefit overissuance. *Id.*, p. 2.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. An expense is allowed if... someone in the FAP group has the responsibility to pay for the service in money.... *Id.* If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, allow only the amount that the group is responsible to pay, unless specific policy directs otherwise. *Id.*, p. 2.

MDHHS alleged an administrative hearing decision dated April 25, 2017, already established that the OI was valid. If the MDHHS allegation is correct, it is not known why MDHHS mailed a Notice of Overissuance to Petitioner on April 25, 2017; MDHHS

testimony did not explain why such an action was taken. More problematic for MDHHS is that the administrative decision allegedly affirming the OI was not presented.

Based on presented evidence, MDHHS did not establish that a debt against Respondent was established by a previous administrative decision. The analysis will proceed to determine if MDHHS established an OI based on the evidence presented in support of the Notice of Overissuance dated April 25, 2017.

MDHHS presented a letter from Petitioner's subsidized housing authority (Exhibit 1, p. 38) dated June 29, 2015. The letter stated that Petitioner was responsible for monthly rent of \$ [REDACTED] from a total rent of \$ [REDACTED]

MDHHS presented FAP budgets and group member summaries from the alleged OI period (Exhibit 1, pp. 27-34). The budgets detailed how FAP benefits were calculated for the original issuances from the alleged OI period. All FAP budgets factored Petitioner's rent to be \$ [REDACTED]/month. Each benefit month budget calculated a FAP issuance of \$ [REDACTED]

MDHHS presented FAP-OI budgets and updated group member summaries from the alleged OI period (Exhibit 1, pp. 9-26). MDHHS testimony indicated the documents reflected the FAP issuances that should have been given to Petitioner during the alleged OI period. All FAP calculations factored Petitioner's rent to be \$ [REDACTED]/month. Each benefit month budget calculated a FAP issuance of \$ [REDACTED]

Presented documentation sufficiently verified Petitioner received an OI of \$ [REDACTED] in FAP benefits from November 2015 through February 2016. The analysis will proceed to consider whether the error was caused by MDHHS or Petitioner.

MDHHS presented Petitioner's Redetermination (Exhibit 1, pp. 41-46). Petitioner's handwritten signature was dated August 27, 2015. The document reported "no changes" in expenses.

MDHHS presented Petitioner's Redetermination (Exhibit 1, pp. 41-46). Petitioner's handwritten signature was dated February 23, 2016. A section on household expense changes was blank.

MDHHS did not allege a misreporting by Petitioner. If MDHHS expected a finding that Petitioner caused the OI, documents reporting a rent of \$ [REDACTED]/month would be expected. No such documentation was presented.

It is found that the OI was caused by MDHHS. Petitioner contended she should not be responsible for repayment of benefits mistakenly issued by MDHHS.

MDHHS policy categorizes overissuances into 3 different types: client error, agency error, and intentional fraud (see BAM 700). Client and Agency errors are not pursued if the estimated amount is less than \$ [REDACTED] per program. BAM 700, p. 9. This policy allows

MDHHS to pursue an OI no matter which party was at fault (assuming an OI of \$ [REDACTED] or more is established).

The present case concerns an error of \$ [REDACTED]. The amount of OI allows MDHHS to establish the OI no matter which party was at fault. Thus, it is of no matter that it was not established that Petitioner did not cause the OI.

It is found that MDHHS established an OI of \$ [REDACTED] in FAP benefits due to agency error. Though the OI will be affirmed, the affirmation will emphasize that the OI was caused by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established an OI of \$ [REDACTED] against Petitioner for over-issued FAP benefits from November 2015 through February 2016 due to **agency error**. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki

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]

Respondent

[REDACTED]
[REDACTED]
[REDACTED]