



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 25, 2017
MAHS Docket No.: 17-012497
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 24, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Swanzetta Wilson, Overpayment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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. On October 16, 2016, Petitioner completed a redetermination and informed the Department she was working as a home health provider for the State of Michigan and that she was employed by [REDACTED] (Exhibit H).
3. In October 2016, Petitioner was issued \$771 in FAP benefits for a group size of 5.
4. In November 2016 through March 2017, Petitioner was issued \$925 in FAP benefits per month for a group size of 6.
5. On September 7, 2017, the Department sent Petitioner a Notice of Overissuance informing Petitioner that she owed \$3,786 for the period October 1, 2016,

through March 31, 2017, because the Department committed an error by failing to budget her income from [REDACTED] resulting in the overissuance.

6. On September 14, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, the Department determined that Petitioner received an overissuance of FAP benefits during the period of October 1, 2016, through March 31, 2017, in the amount of \$3,786. On October 16, 2016, Petitioner submitted a redetermination and informed the Department that she was employed as a home health worker through the State of Michigan. Petitioner also informed the Department that she was employed at [REDACTED]. However, the Department only budgeted Petitioner's income through the State of Michigan. As a result, Petitioner received \$771 in FAP benefits for the month of October 2016 and \$925 in FAP benefits for the months of November 2016 through March 2017.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. In support of its contention that Petitioner was overissued benefits, the Department presented FAP overissuance budgets for the period of October 2016 through March 2017. The Department calculated the benefits Petitioner should have received each month during the overissuance period. The Department received verification of Petitioner's income from [REDACTED] (Exhibit C). The Department determined Petitioner was entitled to \$305 in FAP benefits but received \$771 in FAP benefits for the month of October 2016. Therefore, Petitioner was overissued \$466 in FAP benefits for October 2016. The Department's calculation of Petitioner's FAP benefits was based on a group size of 5, which was Petitioner's correct group size at the time.

In November 2016, Petitioner's FAP group size increased to 6, as an additional person was living in the home. However, when determining the FAP benefits Petitioner should have received, the Department used a group size of 5 for the period of November 2016 through March 2017. Petitioner's group size was 6 during that time period. FAP budget

calculations require the consideration of the group size. The standard deduction is given to all FAP benefit groups and the amount varies based on the benefit group size. RFT 255 (October 2016), p. 1. Additionally, after determining the net income of a group, the groups FAP benefit issuance amount is based on the net income and the group size. RFT 260 (October 2016), p. 1. Therefore, determining the correct group size is essential in determining the correct FAP benefit issuance amount. Thus, the Department's calculation of the FAP benefit amounts Petitioner should have received during the months in the overissuance period of November 2016 through March 2017 were incorrect. The Department failed to establish that it is entitled to recoup benefits for the months of November 2016 through March 2017. The Department did establish that it was entitled to recoup benefits for October 2016 in the amount of \$466.

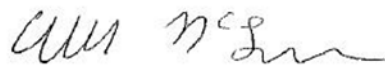
DECISION AND ORDER

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 acted in accordance with Department policy when it determined Petitioner was overissued benefits for October 2016 and did not act in accordance with policy when it determined the FAP overissuance for November 2016 through March 2017.

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. Reduce the overissuance amount to \$466;
2. Initiate recoupment and/or collection procedures for the amount of \$466, less any previously recouped/collected amounts, in accordance with Department policy; and
3. Supplement Petitioner for any FAP benefits recouped in excess of \$466 or refund to Petitioner any sum provided toward the overissuance in excess of \$466.



EM/

Ellen McLemore
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

MDHHS-Wayne-15-Hearings

Petitioner



BSC4
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