



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 31, 2018
MAHS Docket No.: 17-016364
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 29, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker and Hearing Facilitator, as well as [REDACTED] Overpayment Specialist.

ISSUE

Did the Department properly calculate a client error overissuance (OI) of Food Assistance Program (FAP) benefits for the period from August 2016 through July 2017?

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 June 13, 2016, the Department mailed a Redetermination form to Petitioner in order to update her eligibility information for the FAP.
2. On July 13, 2016, Petitioner returned the form to the Department and was also given a Shelter Verification form to be filled out by her landlord. (Exhibit A, pp. 11-16).
3. On July 19, 2016, Petitioner returned the Shelter Verification to the Department. (Exhibit A, pp. 6-7).

4. In June 2017, a question arose related to Petitioner's shelter which prompted the Department to contact the landlord listed on the Shelter Verification form from July 2016.
5. The parties have conflicting stories about the content of the conversation with the landlord; the landlord as listed on the Shelter Verification is the mother of Petitioner's son's father.
6. Based upon the conversation with the landlord/grandmother, the Department concluded that Petitioner had forged the Shelter Verification; therefore, Petitioner had improperly received a shelter as well as a heat and utility deduction in her FAP budget calculations.
7. Initially the Department calculated a FAP OI of \$ [REDACTED] for the period from August 2016 through July 2017 after removal of the shelter and heat and utility expenses from Petitioner's FAP budget because neither had been verified.
8. On December 17, 2017, the Department recalculated Petitioner's FAP OI for the same period to be \$ [REDACTED] after having receiving verification of the obligation to pay heat and utilities. (Exhibit A, pp. 17-18, 47).
9. On December 18, 2017, Petitioner submitted a hearing request disputing the OI from August 2016 through July 2017. (Exhibit A, p. 53).

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 calculated an OI of FAP benefits for the period from August 2016 through July 2017 due to an unverified shelter expense.

Petitioner lives in a mobile home owned by her son's grandmother. She is responsible for paying the lot rent to the Mobile Home Association. She is also responsible for paying the heat and utilities of the mobile home. The Department concedes that

Petitioner lives under the circumstances described above, but asserts that without a valid verification of the shelter expense, an expense cannot be budgeted.

Shelter expenses are allowed when the FAP group has a shelter expense or contributes to a shelter expense. BEM 554 (June 2016), p. 12. Shelter expenses must be verified at application and when a change is reported. BEM 554, p. 14. If a client fails to verify a reported change in shelter, the expense is removed until verified. BEM 554, p. 14. The expense and the amount of the housing expenses must be verified. BEM 554, p. 14. The verification can be made by providing a lease agreement, the DHS-3688 Shelter Verification form, or other similar means. BEM 554, p. 14. The Shelter Verification form instructs clients that it should be given to a landlord, mortgage company, or land contract holder for completion. (Exhibit A, pp. 6-7.)

In this case, either Petitioner or the grandmother filled out the form but all parties agree that Petitioner does not pay the lot rent to the grandmother. The lot rent is paid to the Mobile Home Association. The grandmother has nothing to do with the accounting, payment, or receipt of the lot rent; however, she is listed as the lessee on the lot lease agreement. Even if the grandmother had filled out the form, she was not a person authorized to collect the rent money or to verify the expense. The expense needs to be verified by someone receiving the payment such as a landlord, mortgage company, or contract holder or by a lease with the Petitioner's name appearing on it as the lessee. The Petitioner needed to provide documentation from the Mobile Home Association proving payment of the rent through receipts, a lease, or the shelter verification form. Without a verification from the Mobile Home Association, the Department could not verify the actual expense.

Since the expense was not verified, the Department properly took action to calculate OI budgets for the period from August 2016 (the month after the alleged verification was provided) through July 2017 when the problem was discovered. A review of the FAP OI budgets from August 2016 through July 2017 shows that the only change made was the removal of the rental expense and that each month's FAP benefit rate and OI were properly calculated. RFT 260 (October 2015, October 2016), p. 13. Petitioner's total OI for the period from August 2016 through July 2017 was \$ [REDACTED]

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 calculated an OI of \$ [REDACTED] for the period from August 2016 through July 2017.

DECISION AND ORDER

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



AM/

Amanda M. T. Marler
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]

DHHS Department Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
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