



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: February 12, 2018
MAHS Docket No.: 17-016175
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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. After due notice, a telephone hearing was held on February 12, 2018, from Detroit, Michigan. The Department was represented by ██████████ ██████████ Hearing Coordinator and ██████████ ██████████, Overpayment Specialist. The Respondent was self-represented.

ISSUE

Did Respondent receive an overissuance (OI) of Food Assistance Program (FAP) benefits as a result of 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. Respondent was a recipient of FAP benefits from the Department.
2. On ██████████, the Department issued a Notice of Overissuance indicating that Respondent received a ██████████ OI during the period from ██████████, through ██████████, due to Department's error.
3. On ██████████ ██████████ ██████████, Petitioner submitted a hearing request disputing the Department's determination of an OI owed by the Petitioner to the Department.

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), and Department of Health and 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 .3015.

In this case, the Department alleges a Department/Agency error OI resulting from the Department's failure to take action provided by the Petitioner at the time of application. At application, the Petitioner advised the Department that Petitioner and her husband owned a piece of land that they did not live on and which had a fair market value of about [REDACTED]. Petitioner also provided the Department with a property transfer affidavit showing Petitioner and her husband as the buyers of the land on [REDACTED]. The Department did not take any immediate action based upon the information provided by Petitioner and improperly issued benefits to her. In [REDACTED], the Department reviewed county records for the land and determined its State Equalized Value (SEV) to be [REDACTED] based upon the [REDACTED] assessment and taxable value.

Assets must be considered in determining eligibility for FAP benefits. BEM 400 (February 2014), p. 1. An asset must be available to be countable. BEM 400, p. 8. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, pp. 8-9. Assets are defined as cash, personal property and real property. BEM 400, p. 1. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For FAP, the asset limit is \$5,000. BEM 400, p. 5. To determine the fair market value of real property the following items may be used:

- Deed, mortgage, purchase agreement, or contract.
- State equalized value on current property tax records multiplied by two.
- Statement of real estate agency or financial institution.
- Attorney or court records
- County records.

BEM 400, p. 29.

In this case, to determine ineligibility and an OI of Petitioner's FAP case, the Department relied upon a [REDACTED] from [REDACTED]. When the 2014 SEV is multiplied by two, the fair market value of the real property is [REDACTED], significantly greater than the [REDACTED] asset limit. Therefore, the Petitioner was ineligible for FAP assistance due to being over the asset limit.

Since the Petitioner was ineligible for FAP assistance, she received more benefits than she was entitled to receive. When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (May 2014), p. 1. The amount of the overissuance is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 700, p. 1. Client and Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 9; BAM 705 (May 2014), pp. 1, 6. An agency error is caused by incorrect actions (including delayed or no action) by the Department staff or Department processes. BAM 705, p. 1.

The benefit summary inquiry shows that the Petitioner received [REDACTED] for the period from [REDACTED] through [REDACTED]. As discussed above, Petitioner was ineligible for benefits during this period as a result of being over the asset limit. Since Petitioner was ineligible for benefits, she received benefits that she was not entitled to receive. The Department has met its burden of proof in establishing an OI of [REDACTED].

Based upon the above Findings of Fact and Conclusions of Law, finds that the Department **established** a FAP benefit OI to Respondent totaling [REDACTED].

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a [REDACTED] OI in accordance with Department policy.



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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 Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]