



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 3, 2018
MAHS Docket No.: 18-001380
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on March 28, 2018, from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. [REDACTED] FIS also appeared for the Department. The Petitioner was represented by herself.

ISSUE

Did Petitioner receive an over-issuance (OI) of Food Assistance (FAP) of [REDACTED] for the period November 1, 2015, through March 31, 2016 due to client 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. Petitioner was a recipient of FAP benefits from the Department.
2. On October 28, 2015, the Petitioner completed a Semi Annual Contact Report dated September 1, 2015 and reported answering, no, to the questions regarding whether household gross income had increase by more than [REDACTED] and whether anyone had a change in earnings due to changing, starting or stopping a job. Exhibit G
3. The Department sent the Petitioner a Notice of Overissuance (OI) on January 24, 2018 advising the Petitioner of the reason for the OI due to client error in the

amount of [REDACTED] for failure to report (under reporting) income on the Semi Annual Contact Report. Exhibit A.

4. The Department alleges Petitioner received an FAP OI during the period November 1, 2015, through March 31, 2016, due to **Petitioner's** error.
5. The Department presented a Wage Match details showing Petitioner had earnings for the 4th quarter of 2015 of [REDACTED]. Exhibit H.
6. A verification of employment was completed on June 20, 2016 by Petitioner's employer, [REDACTED], indicating that she began working October 16, 2015 and was paid [REDACTED] Exhibit D.
7. The Department alleges that Petitioner received [REDACTED] OI that is still due and owing to the Department.
8. The Department alleged that Petitioner was an ineligible group member due to non cooperation with Child Support.
9. On February 8, 2018, the Petitioner filed a request for hearing protesting 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), 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 that the Petitioner failed to report her income from employment as a dog groomer on her Semi Annual Contact Report thereby causing her to receive an overissuance of FAP benefits for the period November 1, 2015, through March 31, 2016. The Petitioner had received her first check from the employer at the time of the Semi Annual Completion on October 26, 2015. At the hearing the Petitioner testified that she was surprised that the income was not reported.

The Department alleges that when the unreported income earned by Petitioner is added to the FAP group income, the Petitioner received an overissuance beginning November

1, 2015. When a client group receives more benefits than entitled to, the Department must attempt to recoup the overissuance. BAM 700 (January 2018), p.1. An overissuance is due to client error when the client gives incorrect or incomplete information to the Department. BAM 700, p. 7; BAM 714 (October 2017), p. 1. In this case it is determined that the Petitioner did give incorrect information at the time she completed the Semi Annual based upon her answers to the questions regarding whether her income had increased.

In support of the overissuance, the Department presented evidence that from November 1, 2015 through March 20, 2016, the Petitioner received [REDACTED] in FAP benefits and was overissued [REDACTED]. The Petitioner was eligible in only one month, February 2016 for [REDACTED] in FAP. The Petitioner had been receiving [REDACTED] in FAP benefits monthly.

The Department presented overissuance budgets for each month during the OI period showing the calculation of Petitioner's FAP eligibility when her unreported earned income was considered in the calculation of the FAP net income. With limited exceptions, the income of all group member is considered in calculating FAP eligibility and benefit amounts. BEM 550 (January 2017), pp. 1-14. BEM 556 (July 2013), p. 2.

After a full and careful review of the FAP OI budgets presented, it is determined that the Department incorrectly calculated the OI when it use an incorrect amount for child support of [REDACTED] monthly for [REDACTED] Exhibit C, p. 10. The Department also did not provide the child support summary from Bridges to support the use of this amount and conceded that it was incorrect and should have been [REDACTED] for each child and thus did not meet its burden of proof to establish an Overissuance of [REDACTED] for the period November 1, 2015, through March 31, 2016.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish a FAP benefit OI to Petitioner totaling [REDACTED].

DECISION AND ORDER

Accordingly, the Department is **REVERSED**.

The Department is **ORDERED** to cease collection procedures and delete the overissuance.

LF/tm



Lynn M. Ferris

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 Department Rep.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED] [REDACTED]
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