



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 16, 2018  
MAHS Docket No.: 18-002222  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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; 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 April 4, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], recoupment specialist. The record was closed at the end of the hearing on the scheduled hearing date.

**ISSUE**

The issue is whether MDHHS 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 benefit recipient.
2. From April 24, 2015, through April 8, 2016, Petitioner received ongoing employment income.
3. From June 2015 through December 2015, MDHHS did not factor Petitioner's employment income in Petitioner's FAP eligibility.
4. From June 2015 through December 2015, Petitioner received an OI of \$ [REDACTED] due to unfactored employment income.

5. On July 13, 2016, MDHHS printed a Notice of Overissuance informing Petitioner of an OI of \$ [REDACTED] in FAP benefits due to agency error for the period from June 2015 through December 2015; the document was not mailed to Petitioner.
6. On February 28, 2018, MDHHS mailed to Petitioner a Notice of Overissuance informing Petitioner of an OI of \$ [REDACTED] in FAP benefits due to agency error for the period from June 2015 through December 2015.
7. On February 28, 2018, Petitioner requested a hearing to dispute the OI.

### **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. 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. 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 an alleged OI of FAP benefits. MDHHS alleged that Petitioner's request was untimely; therefore, MDHHS alleged the substance of Petitioner's request should not be addressed by the administrative hearing process.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing.<sup>1</sup> The request must be received in the local office within the 90 days...<sup>2</sup>

MDHHS presented a Notice of Overissuance (Exhibit A, p. 4) dated July 13, 2016. Testimony from a recoupment specialist alleged that the document was likely mailed to Petitioner on the date of notice though she admitted that she had no firsthand knowledge of such mailing. Petitioner testified that she did not receive the notice.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action.<sup>3</sup> The notice of case action is printed and mailed centrally from the consolidated print center.<sup>4</sup>

A "centrally" printed document is one that is computer generated and fully prepped for mail by the MDHHS database. The alternative to central printing is local printing. Locally printed documents simply means the document was printed. For a locally printed

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<sup>1</sup> BAM 600 (January 2018), p. 2

<sup>2</sup> *Id.*

<sup>3</sup> BAM 220 (January 2018), p. 2

<sup>4</sup> *Id.*

document to be mailed would require someone to place the document in an envelope, address the envelope, affix proper postage to the envelope, and place the envelope at a location where it would be mailed. Generally, centrally printed documents are preferable because human error is minimized.

During the hearing, MDHHS testimony conceded that the Notice of Overissuance at issue was locally printed. MDHHS testimony indicated that specialists will sometimes locally print notices for the purpose of attaching their contact information to the document. It is possible that a MDHHS specialist locally printed the Notice of Overissuance dated July 13, 2016, and subsequently mailed the document to Petitioner. MDHHS' failure to use a more reliable method of mailing creates sufficient doubt that it cannot be found that MDHHS issued written notice to Petitioner. Based on the evidence, it is found that MDHHS did not mail a Notice of Overissuance dated July 13, 2016, to Petitioner. Thus, Petitioner is not barred from disputing the alleged OI due to an untimely hearing request.

Petitioner testimony conceded her hearing requested was prompted by a later sent Notice of Overissuance which was dated February 28, 2018. The Notice of Overissuance alleged that Petitioner received \$[REDACTED] in over-issued FAP benefits from June 2015 through December 2015. The basis for the OI was agency (i.e. MDHHS') error.

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.

[For FAP benefits,] client and Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700 (October 2015), p. 9. The alleged overissuance of the present case exceeds \$250; therefore, MDHHS may pursue the alleged overissuance of FAP benefits regardless of the party responsible for causing the alleged OI... assuming the OI is established to exceed \$250.

MDHHS presented a portion of Respondent's FAP benefit issuance history (Exhibit A, pp. 33-34). Issuances of \$[REDACTED] were listed from June 2015 through December 2015.

MDHHS presented documentation from TheWorkNumber.com (Exhibit 1, pp. 50-53) for Respondent. Various biweekly gross pay amounts from April 24, 2015, through April 8, 2016, were listed.

MDHHS presented an Issuance Summary (Exhibit A, p. 49) and corresponding FAP overissuance budgets (Exhibit 1, pp. 35-48) from June 2015 through December 2015. The OI budgets factored, in part, Petitioner's FAP benefit issuances as stated on Petitioner's FAP issuance history. The OI budgets also factored Petitioner's earnings as

stated on presented TheWorkNumber.com documents. The budgets gave Petitioner a 20% credit for reporting employment income which is consistent with an OI caused by agency error. A total OI of \$ [REDACTED] was calculated.

Petitioner's testimony did not attack the validity of the OI. Petitioner's primary concern was that the OI would affect her tax refund and/or wreak other havoc with her finances. As discussed during the hearing, active FAP recipients reimburse MDHHS through a 5% recoupment of ongoing benefits (see BAM 725); inactive recipients can make payment arrangements with MDHHS.

The evidence established that Petitioner received a \$ [REDACTED] OI over the period from June 2015 through December 2015. Thus, MDHHS established the alleged OI.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly established an OI of \$ [REDACTED] in FAP benefits from the period of June 2015 through December 2015. The actions taken by MDHHS are **AFFIRMED**.

CG/



**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]

**DHHS Department Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

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