



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: June 20, 2018  
MAHS Docket No.: 18-004708  
Agency No.: ██████████  
Petitioner: ██████████

**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 June 13, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. ██████████, Petitioner's daughter, testified on behalf of Petitioner and participated as a Bengali translator. The Michigan Department of Health and Human Services (MDHHS) was represented by Michelle Silas, recoupment specialist, and Joshua Porter, specialist.

**ISSUE**

The issue is whether MDHHS established an overissuance of Food Assistance Program (FAP) benefits against Petitioner.

**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 August 31, 2016, Petitioner applied for FAP benefits. Petitioner's application included boilerplate language informing Petitioner to report to MDHHS any changes in income within 10 days. (Exhibit A, pp. 34-68)
2. From September 30, 2016, through June 23, 2017, Petitioner received weekly pays from an employer (hereinafter "Employer"). (Exhibit A, p. 28)
3. Beginning April 1, 2017, Petitioner began receiving \$650/month in rental income. (Exhibit A, pp. 30-31)

4. From December 2016 through June 2017, Petitioner received \$[REDACTED]/month in FAP benefits (Exhibit A, p. 10). Petitioner's FAP eligibility did not include employment income from Employer or rental income.
5. On May 22, 2017, MDHHS learned of Petitioner's employment income from Employer.
6. On March 6, 2018, MDHHS learned of Petitioner's rental income.
7. On March 18, 2018, an MDHHS specialist referred Petitioner's case to a recoupment specialist concerning Petitioner's unreported employment and rental income. (Exhibit A, p. 69)
8. On an unspecified date, MDHHS calculated that Petitioner received \$[REDACTED] in over-issued FAP benefits over the period of December 2016 through June 2017. The basis of the OI was untimely reported income from Employer and untimely reported rental income. (Exhibit A, pp. 11-25)
9. On April 25, 2018, MDHHS mailed Petitioner a Notice of Overissuance informing Petitioner of a \$[REDACTED] OI of FAP benefits over the period from December 2016 through June 2017. The basis of the OI was Petitioner's error. (Exhibit A, pp. 5)
10. On May 8, 2018, Petitioner requested a hearing to dispute the OI of FAP benefits.

### **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. MDHHS presented a Notice of Overissuance (Exhibit A, p. 5) dated April 25, 2018. The notice informed Petitioner of an OI of FAP benefits totaling \$[REDACTED] occurring over December 2016 through June 2017. The stated reason for OI was Petitioner's failure to timely report employment income from Employer as well as unbudgeted rental income.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. *Id.* Recoupment is a MDHHS action to identify and recover a benefit overissuance. BAM 700 (January 2018), pp. 1-2.

There are three different types of overissuances. An agency error is caused by an incorrect MDHHS action (including a delay or inaction). A client error occurs when the client received more benefits than they were entitled to because of giving incorrect or incomplete information to MDHHS. An intentional program violation occurs when a client intentionally misreported or failed to report information. Client and Agency errors are not pursued if the estimated amount is less than \$250 per program. *Id.*, pp. 4-8.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes in income must be reported within 10 days of receiving the first payment reflecting the change. BAM 105 (July 2015), pp. 10-11.

MDHHS presented documentation from Employer (Exhibit A, pp. 28-29). The documents listed various gross pays from Employer to Petitioner over the period from September 30, 2016, through June 23, 2017. Petitioner did not dispute that she received all listed pays. MDHHS alleged all of Petitioner's listed income from Employer went unreported; Petitioner did not allege otherwise.

MDHHS presented a lease agreement between Petitioner and a tenant (Exhibit A, pp. 30-31). The lease stated that Petitioner would receive \$[REDACTED]/month in rent from the tenant. The begin date of the lease was April 1, 2017. Petitioner did not dispute any of the lease's subject matter.


MDHHS presented an Issuance Summary (Exhibit A, p. 11) and OI budgets from December 2016 through June 2017 (Exhibit A, pp. 12-25). The budgets factored Petitioner's actual FAP issuances as stated on a Benefit Summary Inquiry (Exhibit A, p. 10). The budgets factored Petitioner's actual pays from Employer; the income was factored as unreported. OI budgets beginning April 2017 also factored rental income of \$[REDACTED]/month. A total OI of \$[REDACTED] was calculated.

The evidence established that Petitioner received \$[REDACTED] in over-issued FAP benefits from December 2016 through June 2017 due to Petitioner's failure to timely report employment and rental income. Accordingly, MDHHS established an OI of \$[REDACTED] in FAP benefits due to Petitioner's error.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS established that Petitioner received an OI of \$ [REDACTED] in FAP benefits from December 2016 through June 2017 due to client error. The actions taken by MDHHS are **AFFIRMED**.

CG/

  
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**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) 763-0155; 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**

Clarence Collins  
MDHHS-Wayne-55-Hearings

**DHHS Department Rep**

MDHHS-Recoupment

**Petitioner**

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M Shumaker  
C Gardocki  
MAHS