



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: June 1, 2018  
MAHS Docket No.: 18-004026  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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 May 24, 2018, from Detroit, Michigan. The Petitioner was represented by Petitioner. [REDACTED], Petitioner's husband appeared at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Recoupment Specialist.

**ISSUE**

Did the Department properly determine that Petitioner was overissued Food Assistance Program (FAP) benefits in the amount of [REDACTED] from January 1, 2014 through June 30, 2014?

**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 applied for FAP benefits on July 22, 2008.
2. Petitioner's application for FAP benefits was approved.
3. On November 4, 2013, Petitioner applied for State Emergency Relief (SER) and Medical Assistance (MA) benefits.
4. Petitioner attached information relating to her husband's earned income at the time she submitted the November 4, 2013 application.
5. The Department failed to budget [REDACTED] earned income.

6. On November 20, 2013, the Department received income verification from [REDACTED] employer showing that his first pay was received on November 1, 2013 in the amount of \$ [REDACTED].
7. However, the employer informed the Department that the November 1, 2013 pay was a partial pay and that [REDACTED] full pay was [REDACTED] every two weeks.
8. The Department only budgeted the partial payment and determined the group's eligibility for FAP benefits based upon [REDACTED] receiving earnings in the [REDACTED] every two weeks.
9. The Department realized that it erred in determining the group's eligibility for FAP benefits and redetermined the group's eligibility factoring in [REDACTED] gross income.
10. On April 4, 2018, the Department sent Petitioner a Notice of Overissuance which notified Petitioner that the group had been overissued FAP benefits in the amount of [REDACTED]0.
11. On April 13, 2018, Petitioner filed a Request for Hearing disputing 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), 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.

The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (July 2013), p. 6. When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700 (July 2013), p. 1. In this case, the Department alleged that the Petitioner received an overissuance from January 1, 2014 through June 30, 2014.

The Department testified that on November 4, 2013, Petitioner applied for SER and MA benefits and reported that her husband was employed. The Department acknowledged that it received income verification from [REDACTED] employer which detailed a partial

earnings amount on November 1, 2013 and his full earnings amount on November 15, 2013. The Department confirmed that it only budgeted the partial earnings amount which created an overissuance.

Petitioner and her husband maintained that they timely submitted income information and did all that was required of them. The Department agreed that Petitioner timely reported earnings information. The Department conceded that the overissuance was caused by Agency error. Under Department policy gross countable earned income is reduced by a 20% earned income deduction. BEM 550 (January 2017), p. 1. However, the 20% earned income deduction is not allowed when determining overissuances due to failure to report earned income BAM 715, p. 8.

██████████ confirmed that the earnings used in the Department's calculations to determine the overissuance was correct. The Department testified that because the group was over the gross income limit, the group was not entitled to any FAP benefits during the overissuance period.

However, a review of Department policy indicates that applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS). If their gross income is at or below 200% of the poverty level and they meet the asset test, they are also categorically eligible. BEM 213 (December 2013), p. 1. Further, because FAP applicants and recipients are categorically eligible for FAP if they meet the asset test and if their gross income is at or below 200% of the federal poverty level, the gross income limit for FAP eligibility for Petitioner's five-person FAP group size was ██████████ during the overissuance period. RFT 250 (December 2013), p. 1.

The Department submitted budgets in support of its position that Petitioner's group was overissued FAP benefits. In each budget except March 2014, the Department lists the gross income limit as \$0.00, which means the Department did not believe that the group was over the gross income limit. It appears that the Department was asserting that Petitioner was over the net income limit in each month except March 2014. In the March 2014 budget, the Department seems to acknowledge that the gross income limit for a group size of five was ██████████ as that is what is listed for the gross income limit on that particular budget.

Petitioner also testified that ██████████ pays child support and has done so for a significant period of time. In the original budgets used to determine eligibility in 2014, the Department provided the group with a child support deduction of ██████████. However, in the overissuance budgets, the Department failed to allow for the child support deduction. Because the group was under the gross income limit for each month during the overissuance period except March 2014 and because the Department failed to allow for the child support deduction, it is found that the Department failed to establish and overissuance in the amount of ██████████. Although the Department failed to establish the alleged amount, the Department did establish that the group was overissued FAP benefits during the OI period. It is possible that the group's income

may exceed the net income limit which would render the group ineligible for FAP benefits.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department failed to establish that Petitioner was overissued FAP benefits in the amount of [REDACTED].

**DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to redetermine the overissuance amount for the period of January 1, 2014 through June 30, 2014 consistent with the decision; and
2. Issue a Notice of Overissuance with the updated overissuance amount, if any.

JAM/tlf



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**Jacquelyn A. McClinton**  
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

**Via Email:**

[REDACTED]

**Petitioner – Via First-Class Mail:**

[REDACTED]