



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 1, 2018
MAHS Docket No.: 18-003954
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 30, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Angela Cole, Eligibility Specialist; Daniel Ugorowski, Eligibility Specialist; and Alberta Kelley, Recoupment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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 [REDACTED], 2016, Petitioner submitted an application for FAP benefits (Exhibit H). in the application, Petitioner reported earned income from employment and unearned income in the form of child support.
2. On November 16, 2016, the Department sent Petitioner a Notice of Case Action informing Petitioner that she was approved for FAP benefits based on her earned income alone (Exhibit F, pp. 1-2).
3. On [REDACTED], 2017, Petitioner completed a semi-annual and reported no changes in income (Exhibit I).

4. On April 6, 2017, the Department sent Petitioner a Notice of Case Action informing her that she was approved for FAP benefits based on her earned income alone (Exhibit F, pp. 3-4).
5. On [REDACTED], 2017, Petitioner completed a redetermination regarding her Medical Assistance (MA) benefit case (Exhibit J). In the redetermination, Petitioner reported earned income from employment and unearned income from child support.
6. On September 9, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that she was approved for FAP benefits based on her earned income alone (Exhibit F, pp. 8-9).
7. On April 10, 2018, the Department sent Petitioner a Notice of Overissuance informing her that she was overissued FAP benefits for the period of February 1, 2017 through January 31, 2018 in the amount of \$5,664 due to Agency error (Exhibit A).
8. On April 20, 2018, Petitioner submitted 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.

In this case, Petitioner submitted an application for FAP benefits on [REDACTED], 2016. In the application, Petitioner reported that she had earned income from employment and unearned income in the form of child support.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). BEM 503 (January 2017), p. 6. Certified support is retained by the state due to the child's FIP activity. BEM 503, p. 6. Direct support is paid to the client. BEM 503, p. 6. The total amount of direct child support is counted as unearned income by the Department. BEM 503, p. 8.

Despite the information provided by Petitioner, the Department did not include any unearned income in the calculation of Petitioner's FAP benefit amount throughout the period of February 1, 2017 through January 31, 2018. As such, the Department testified that Petitioner's FAP benefit amount was improperly calculated, as the unearned income in the form of child support should have been included in Petitioner's FAP budget. The Department testified that Petitioner was overissued benefits for the period of February 1, 2017 through January 31, 2018 in the amount of \$5,664 due to Agency error.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8.

The Department presented an application for FAP benefits submitted by Petitioner on [REDACTED], 2016 (Exhibit H). The Department also presented a redetermination submitted by Petitioner for MA benefits on [REDACTED], 2017 (Exhibit J). In the application and redetermination, Petitioner reported that she had unearned income in the form of child support. The Department also presented the Child Support Consolidated Inquiry showing the amount of child support Petitioner received for each of her children during the period of February 1, 2017 through January 31, 2018 (Exhibit C). Additionally, the Department provided numerous Notices of Case Action issued during the period of February 1, 2017 through January 31, 2018, showing the child support income was not included in the calculation of her FAP benefit amount. As such, the Department correctly determined Petitioner's child support income was not properly budgeted and she was overissued FAP benefits as a result of Agency error.

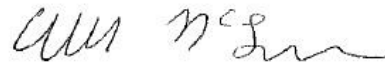
The Department presented Petitioner's Benefit Summary, which showed she was issued \$5,956 in FAP benefits for the period of February 1, 2017 through January 31, 2018. The Department presented overissuance budgets for the period February 2017 through January 2018 (Exhibit E). The Department recalculated Petitioner's FAP benefits by adding in the child support income for each month, as shown on the Consolidated Inquiry. The budgets show that for the period of February 2017 through January 2018, Petitioner should have only received \$292 in FAP benefits. Therefore, the Department established it properly determined Petitioner was overissued FAP benefits in the amount of \$5,664.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

accordance with Department policy when it determined Petitioner received an overissuance of FAP benefits in the amount of \$5,664. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



Ellen McLemore
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:

MDHHS-Washtenaw-20-Hearings
MDHHS- Recoupment
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

