



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: August 23, 2018
MAHS Docket No.: 18-006920
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 August 8, 2018, from Lansing, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Dawn McKay, Recoupment Specialist. During the hearing, 44 pages of documents were offered and admitted into evidence as Exhibit A, pages 1-44.

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], 2017, Petitioner filed an application for FAP benefits. Exhibit A, pages 5-24.
2. Petitioner qualified for \$151.00 in FAP benefits per month.
3. In late September or early October of 2017, Petitioner's medical expenses were reduced by \$134.00 per month when the Department began making the Medicare Part B premium payments on Petitioner's behalf.

4. The Department was aware of the change yet failed to take the reduction in expenses into account when budgeting future months, resulting in the Department overissuing benefits.
5. In October or November of 2017, Petitioner's rent increased from \$119.00 per month to \$185.00 per month.
6. Petitioner failed to report the change in rent to the Department, so the Department did not consider the increased rent when issuing benefits.
7. Starting January 1, 2018, Petitioner's rent decreased from \$185.00 per month to \$156.00 per month.
8. Petitioner failed to report the change in rent to the Department, so the Department continued to calculate Petitioner's FAP benefits based on her initial reported rent of \$119.00.
9. Sometime in June of 2018, the Department became aware that the reduced medical expenses had not been factored into the budget from November of 2017 through present, so it recalculated the benefits.
10. On June 27, 2018, the Department sent Petitioner a Notice of Overissuance informing her that she had been overissued FAP benefits in the amount of \$308.00 for the period of January 1, 2018 through July 31, 2018.
11. On July 5, 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.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (January 1, 2018), p. 1. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 7.

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 1, 2016), p. 6.

In this case, Petitioner received \$151.00 per month in FAP benefits from October of 2017 through July of 2018. Those benefits were calculated based on what Petitioner reported on her September of 2017 FAP application, including rent of \$119.00 per month and a medical expense of \$134.00 per month. Starting November 1, 2017, Petitioner no longer had to pay the \$134.00 per month medical expense, and the Department was aware of that fact.

The Department, however, failed to take into account the reduction of expenses when calculating Petitioner's benefits for the months from November of 2017 through July of 2018. The failure to remove the expenses caused Petitioner to receive an overissuance of benefits from January 1, 2018, through July 31, 2018, of \$308.00. Even though the Department's mistake resulted in the overissuance, the Department is still entitled to recover the overissuance, which the Department correctly calculated as \$308.00.

At the hearing, Petitioner argued that the Department improperly failed to include her increased rent in her budgets. Petitioner alleged that the overissuance budgets should take into account her rent of \$156.00 per month starting in January of 2018. According to the budgets provided, the previous rent of \$119.00 per month was used in Petitioner's FAP budgets. The Department testified it reviewed Petitioner's case file and could not find any evidence of the reported change in rent. Petitioner testified she could not specifically recall reporting the change to the Department, but that she is generally very diligent about reporting changes and believes that she would have timely reported the change.

Petitioner did not provide sufficient evidence that she timely reported the change in rent. Therefore, the Department acted in accordance with policy when it factored the \$119.00 per month rent into the overissuance budgets.

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 was overissued FAP benefits in the amount of \$308.00 during the period of January 1, 2018, through July 31, 2018. Accordingly, the Department's decision is **AFFIRMED**.



JM/dh

John Markey
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

Eileen Asam
701 S. Elmwood Suite 19
Traverse City, MI 49684

Grand Traverse County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
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Petitioner

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