



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

Date Mailed: August 31, 2018  
MAHS Docket No.: 18-007094  
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 9, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Annette Fullerton, Recoupment Specialist, and Adele Sumption, Hearing Facilitator.

**ISSUE**

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

**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 a recipient of FAP benefits from the Department.
2. On July 17, 2017, Petitioner returned to the Department a completed Redetermination, Form 1010, informing the Department of relevant matters related to her ongoing eligibility for FAP benefits. Included in the returned Redetermination was a statement that her income with [REDACTED] had decreased as a result of the summer break from school.

3. On August 1, 2017, the Department issued a Verification of Employment to [REDACTED]. On August 14, 2017, the Department received the completed Verification of Employment form from [REDACTED] that informed the Department that Petitioner had no income from [REDACTED] from July 1, 2017 through August 11, 2017.
4. The Verification of Employment returned by [REDACTED] also informed the Department that "Position guarantees 4 hours minimum per day, when school is in session. Summer work not guaranteed – bid by seniority. School ends as early as June 9, depending on the district. School resumes for most districts by September 5 at the latest."
5. For October of 2017 through March of 2018, the Department issued Petitioner benefits based on a monthly income of [REDACTED]. The Department failed to take into consideration both Petitioner's and Dean Transportation's statements that Petitioner's hours increase during the school year.
6. On June 25, 2018, the Department issued to Petitioner a Notice of Overissuance alleging that Petitioner received an OI of FAP benefits in the amount of \$2,315.00 from September of 2017 through March of 2018 due to agency error.
7. On July 9, 2018, Petitioner filed a request for hearing objecting to the Department's demand that Petitioner repay the Department.
8. On July 23, 2018, upon reviewing the matter, the Department eliminated the OI for September 2017 and is now only asserting Petitioner received an OI in the amount of \$2,056.00 from October 2017 through March 2018.

### **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, the Department is seeking to recoup an alleged \$2,056.00 OI of FAP benefits issued to Petitioner. The Department concedes that the OI was caused by the Department's error. The Department now seeks to recoup and/or collect that amount from Petitioner.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance (OI). BAM 700 (January 2018), p. 1. An OI is the amount of benefits issued to the client group in excess of what it was eligible to receive. BAM 700, p. 1. An agency error OI is caused by incorrect action (including delayed or no action) by the Department. BAM 705 (January 2016), p. 1. Recoupment of OIs caused by agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 705, p. 1. However, if the OI amount is \$250 or higher, the Department must attempt to recoup the OI amount. BAM 700, p. 1.

In this case, Petitioner received \$640.00 of FAP benefits each month from October 2017 through March 2018. When calculating Petitioner's FAP benefit amount, the Department did not include any of Petitioner's wages from Dean Transportation, despite both Petitioner and Dean Transportation informing the Department that Petitioner would be working at least four hours per day for the entire time period. The Department's failure to include Petitioner's income into the budget resulted in the Department overissuing FAP benefits to Petitioner. During the hearing, the Department presented sufficient evidence to conclude that the amount of the OI was \$2,056.00.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling \$2,056.00 due to Department error.

Petitioner expressed frustration that she is required to pay back money that resulted from an error that was not her fault. Petitioner explained that paying back the money would put her in difficult financial circumstances. Petitioner's frustration is understandable, but Department policy is clear that overissuances over \$250 that resulted from agency error can be recouped. BAM 705, p. 1.

### **DECISION AND ORDER**

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$2,056.00 OI, less any amounts already recouped or collected, in accordance with Department policy.

JM/dh



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**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**

Fiona Wicks  
12185 James St Suite 200  
Holland, MI 49424

Ottawa County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**DHHS Department Rep.**

MDHHS-Recoupment  
235 S Grand Ave  
Suite 1011  
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**Petitioner**

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