



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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

Date Mailed: August 31, 2018  
MAHS Docket No.: 18-007327  
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 15, 2018, from Lansing, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Denise Beard, Recoupment Specialist, and Candice Benns, Hearings Specialist. One exhibit, consisting of 29 pages, was offered and admitted into evidence as Exhibit A, pages 1-29.

**ISSUE**

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits due to client error 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. Petitioner was an ongoing simplified reporting FAP recipient with a simplified reporting limit of \$2,633.00. At the time, she was working a few hours per week as a fill-in dental hygienist at [REDACTED].
2. Petitioner was a member of a FAP group that consisted of herself and three children.

3. In November 2016, Petitioner began a new full-time job with [REDACTED].
4. In each of the months from February of 2017 through April of 2017, Petitioner exceeded the simplified reporting limit.
5. In each of the months from February of 2017 through April of 2017, Petitioner was issued \$649 in FAP benefits.
6. On March 21, 2017, Petitioner reported to the Department that she was working at [REDACTED].
7. On June 15, 2018, the Department sent Petitioner a Notice of Overissuance stating Petitioner had been overissued FAP benefits in the amount of \$1,947 for the period of February 1, 2017, through April 30, 2017.
8. On July 10, 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 obtained new employment in November 2016. The Department testified the new income was not reported to the Department until Petitioner completed a Semi-Annual Contact Report on March 21, 2017. Petitioner did not, however, fill out the Semi-Annual Contact Report completely by not answering the question that asked her whether her monthly income has increased by \$100 or more from the amount previously budgeted of \$241 per month. It took a couple more months before the Department realized Petitioner had additional income from her job with Preferred Dental Group. When the Department properly budgeted Petitioner's unreported income, the Department determined that for each of the three months from February through April of 2017, Petitioner was not eligible for any FAP benefits. Because Petitioner was not eligible for any the benefits she received, the Department determined that all \$1,947 of the FAP benefits issued to Petitioner during that time were an OI.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (January 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. 5. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 700, p. 1. 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 (January 2016), p. 8. For client error overissuances due, at least in part, to failure to report earnings, the Department does not allow the 20 percent earned income deduction on the unreported earnings. BAM 720 (October 2017), p. 8.

In support of its contention that Petitioner was overissued benefits, the Department presented FAP overissuance budgets for the period of February through April of 2017. The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of Petitioner's unreported income. The Department received verification of Petitioner's income from [REDACTED] and used it to calculate her actual income during the overissuance period. The Department also presented Petitioner's FAP benefit summary. The benefit summary shows Petitioner was issued FAP benefits in the amount of \$649 per month for the period of March 1, 2017, through April 30, 2017.

In the overissuance budgets presented for March and April of 2017, the Department indicated Petitioner's group was entitled to \$0 benefits, as the group exceeded the net income limit. The Department properly did not apply the earned income deduction to Petitioner's unreported income. Based upon the evidence presented at the hearing, the Department correctly concluded that Petitioner received an OI of FAP benefits of \$1,947 from March to April of 2017. Accordingly, the Department's action is affirmed.

### **DECISION AND ORDER**

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$1,947 OI, less any amounts already recouped or collected, in accordance with Department policy.



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**John Markey**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

JM/dh

**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**

Deborah Little  
5131 Grand River Ave.  
Detroit, MI 48208

Wayne (District 49), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**DHHS Department Rep.**

MDHHS-Recoupment  
235 S Grand Ave  
Suite 1011  
Lansing, MI 48909

**Petitioner**

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