



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: October 18, 2018
MAHS Docket No.: 18-009405
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 October 11, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. Also appearing and testifying on behalf of Petitioner was Petitioner's husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Christine Allen, Recoupment Specialist. During the hearing, a 66-page packet of documents was offered and admitted as Exhibit A, pp. 1-66.

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. Petitioner was a recipient of FAP benefits from the Department. Petitioner was in an FAP group with her husband, [REDACTED].
2. On September 5, 2017, the Department issued to Petitioner a Redetermination in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Exhibit A, pp. 7-14.

3. On October 9, 2017, Petitioner returned the completed Redetermination to the Department. On the Redetermination, Petitioner indicated that nobody in the home had any income. Petitioner also stated that [REDACTED] "job has not started yet and may not take the job due to better opportunity." Exhibit A, pp. 7-14.
4. On October 25, 2017, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was approved for FAP benefits, effective November 1, 2017. The document informed Petitioner that her monthly FAP benefits were based on her FAP group having [REDACTED] income. Exhibit A, pp. 15-18.
5. The Notice of Case Action informed Petitioner that "it is your responsibility to notify this office within 10 days of any changes in your circumstances which may affect your eligibility for assistance. This includes changes in employment, income...for you or members of your family." Along with the Notice of Case Action, the Department provided Petitioner with a Change Report form for use when reporting a change to the Department. Exhibit A, pp. 15-18.
6. Starting in October of 2017, Petitioner's husband, [REDACTED] began working at [REDACTED]. [REDACTED] worked regularly at [REDACTED] from October of 2017 through at least September of 2018. Exhibit A, pp. 40-42.
7. Petitioner did not report [REDACTED] employment or income to the Department.
8. At some point in the summer of 2018, the Department received notification from a wage match program that [REDACTED] was working at [REDACTED].
9. On July 18, 2018, the Department issued to [REDACTED] a Wage Match Client Notice requiring [REDACTED] to answer questions regarding [REDACTED] employment with [REDACTED]. On July 26, 2018, [REDACTED] returned the completed paperwork informing the Department that [REDACTED] had been working for [REDACTED] since October of 2017. Exhibit A, pp. 36-37.
10. From December 1, 2017, through August 31, 2018, the Department issued to Petitioner FAP benefits in the amount of \$2,598. The Department's issuance calculations were made without considering [REDACTED] income from [REDACTED]. Exhibit A, pp. 43-61.
11. After recalculating Petitioner's FAP benefits from December 1, 2017, through August 31, 2018, with the inclusion of [REDACTED] income from [REDACTED], it shows that Petitioner was overissued \$1,715 in FAP benefits during that time period. Exhibit A, pp. 43-61.
12. On September 4, 2018, the Department issued to Petitioner a Notice of Overissuance informing Petitioner that the Department believed Petitioner was overissued \$1,715 in FAP benefits from December 1, 2017, through August 31, 2018, as a result of a client error. Exhibit A, pp. 62-66.

13. On September 18, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's September 4, 2018, Notice of Overissuance.

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's husband and FAP group member, [REDACTED] obtained new employment in November of 2017. The Department testified the new income was not reported to the Department until the Department received a notification through a wage match system that [REDACTED] had been paid wages from [REDACTED]. The Department then sent out a questionnaire to [REDACTED] seeking more information regarding [REDACTED] employment. After [REDACTED] returned that information, the Department adjusted Petitioner's FAP benefits accordingly and sent the matter to a recoupment specialist to determine if factoring in the unreported income would result in an overissuance. The recoupment specialist factored the unreported income into the FAP budgets for all months from December of 2017 through August of 2018 and determined that Petitioner was overissued \$1,715 in FAP benefits.

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 December of 2017 through

August of 2018. The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of [REDACTED] unreported income. The Department received verification of [REDACTED] income from [REDACTED] and used it to calculate his 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 total amount of \$2,598 for the period of December 1, 2017, through August 31, 2018. Based upon the evidence presented at the hearing, the Department correctly concluded that Petitioner received an OI of FAP benefits of \$1,715 from December 1, 2017, through August 31, 2018.

Petitioner was adamant that they reported the income to the Department and should, at the very least, be granted the benefit of the 20 percent earned income deduction on [REDACTED] earnings. Petitioner's contention that [REDACTED] income was reported is belied by the record. Petitioner's only "report" to the Department was a statement that [REDACTED] may begin a job soon. That is not sufficient. Petitioner was subsequently informed that her monthly FAP benefits were calculated based on an income of zero and that any change in income would need to be reported to the Department, which would then recalculate her monthly benefits. Petitioner never actually told the Department that [REDACTED] had a job with [REDACTED] or that he had any income from any source. Petitioner was aware that at no point was [REDACTED] income from [REDACTED] considered in calculating her FAP benefits. Thus, the Department properly did not apply the earned income deduction to Petitioner's unreported income. 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 \$1,715 overissuance, less any amounts already recouped or collected, in accordance with Department policy.

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

Denise Croff
301 E. Louis Glick Hwy.
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DHHS Department Rep.

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Jackson County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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