



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: November 29, 2018
MAHS Docket No.: 18-010324
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Upon the request for a hearing by the Petitioner, Jessica Hills (Petitioner), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a 3-way telephone hearing was held on November 21, 2018, from Lansing, Michigan. The Department was represented by Kurt Sperry, Recoupment Specialist. The Petitioner was represented by herself. Department Exhibit 1, pp. 1-40 was received and admitted. Petitioner Exhibit A, pp. 1-2 was received and admitted.

ISSUE

Did Respondent receive an over-issuance (OI) of FAP benefits?

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. The Department alleges Petitioner received a FAP OI during the period April 1, 2016, through October 31, 2016, due to **Department's** error.
3. The Department alleges that Petitioner received \$ [REDACTED] OI that is still due and owing to the Department.
4. Petitioner's husband moved from the marital home in June 2016 and Petitioner informed her caseworker that he was no longer in the household. (Ex. A)

5. On September 20, 2018, Notice of Overissuance was sent to Petitioner.
6. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing contesting the 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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

All Programs

When a client group receives more benefits than it is entitled to receive, the Michigan Department of Health and Human Services (MDHHS) must attempt to recoup the overissuance. BAM 700

Spouses

Spouses who are legally married and live together **must** be in the same group.

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under** 22 years of age who live together **must** be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212

Petitioner credibly testified that she informed her caseworker that her husband was no longer residing with her in June 2016 but was told by her caseworker that her husband needed to remain on her case. Petitioner provided a lease showing that her husband rented an apartment separate from the marital home beginning on June 1, 2016. (Ex. A) Petitioner's former case worker did not testify at hearing. No policy was cited to establish that Petitioner's husband was required to remain on Petitioner's case after he moved out. If Petitioner's husband was no longer residing with her in June 2016 then he should have been removed from the FAP group at that time. BEM 212 If Petitioner's husband was not in the FAP group then his employment income should not be included in Petitioner's budget. The Department failed to present sufficient evidence to establish that an overissuance occurred.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish a FAP benefit OI.

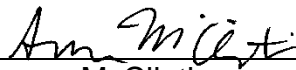
DECISION AND ORDER

Accordingly, the Department is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the overissuance.
2. Cease all collection actions against the Petitioner.

AM/nr



Aaron McClintic
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

Erin Bancroft
105 W. Tolles Drive
St. Johns, MI
48879

Clinton County DHHS- via electronic mail

M. Shumaker- via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
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48909

Petitioner

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