



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: November 29, 2018
MAHS Docket No.: 18-011187
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 November 28, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Vicki DeKruger, Recoupment Specialist. During the hearing, a 56-page packet of documents was offered and admitted as Exhibit A, pp. 1-56.

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 an ongoing recipient of FAP benefits.
2. On August 4, 2017, the Department issued to Petitioner a Redetermination to gather relevant information from Petitioner regarding Petitioner's ongoing eligibility for Fap benefits. Exhibit A, pp. 7-14.
3. On August 28, 2017, Petitioner returned the completed Redetermination to the Department. On the completed Redetermination, Petitioner reported that he was receiving \$1,201 per month in disability income. Exhibit A, pp. 7-14.
4. On September 14, 2017, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was approved for FAP benefits from October 1,

2017 through September 30, 2018 in the amount of \$192 per month. The Department calculated Petitioner's monthly FAP benefits without factoring in the disability income Petitioner reported on the Redetermination. Exhibit A, pp. 15-20.

5. Each month from October 2017 through September 2018, the Department issued to Petitioner \$192 in FAP benefits. Exhibit A, p. 27.
6. On October 17, 2018, the Department issued to Petitioner a Notice of Overissuance alleging that Petitioner received an OI of FAP benefits in the amount of \$2,124 from October 1, 2017, through September 30, 2018, due to agency error. The Department conceded that it improperly budgeted Petitioner's monthly income. Exhibit A, pp. 52-56.
7. On [REDACTED] 2018, Petitioner filed a request for hearing objecting to the Department's demand that Petitioner repay the Department.

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 \$2,124 overissuance of FAP benefits issued to Petitioner. The Department concedes that the overissuance 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. BAM 700 (October 2018), p. 1. An overissuance 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 overissuance is caused by incorrect action (including delayed or no action) by the Department. BAM 705 (October 2018), p. 1. Recoupment of overissuances caused by agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 705, p. 1. However, if the overissuance amount is \$250 or higher, the Department must attempt to recoup the overissuance amount. BAM 700, p. 1.

In this case, Petitioner received \$192 in FAP benefits each month from October 2017 through September 2018. When calculating Petitioner's FAP benefit amount, the Department severely underestimated Petitioner's monthly income by failing to factor in Petitioner's disability income, despite Petitioner reporting it to the Department. The Department's failure to include all of Petitioner's income into the budget resulted in the Department overissuing FAP benefits to Petitioner. Thus, the Department has presented sufficient evidence to establish that there was an overissuance of FAP benefits from October 1, 2017, through September 30, 2018.

At the hearing, the Department presented overissuance budgets showing how it calculated the amount of FAP benefits Petitioner should have received in each of those twelve months he was overissued FAP benefits. For each of those twelve months, the Department calculated Petitioner's correct FAP benefit at \$15. After reviewing each of those months, the Department's ultimate conclusion that Petitioner was eligible for \$15 per month was correct. Thus, the Department properly found that Petitioner received \$192 per month and was only entitled to \$15 per month. Accordingly, the Department's finding that Petitioner was overissued \$2,124 in FAP benefits from October 1, 2017 through September 30, 2018 is affirmed.

It is worth noting, however, that the Department's inputs in the overissuance budget were incorrect. The Department's incorrect inputs resulted in Petitioner's final net income for each of the months to be overstated. However, the correct net income amounts for each month still corresponded with a FAP benefit issuance of \$15. Thus, any error in the calculation of the overissuance was harmless as it still resulted in the same findings.

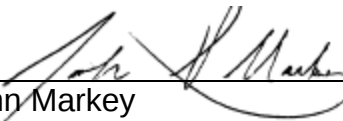
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department established an agency error FAP benefit overissuance to Petitioner in the amount of \$2,124.

DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a \$2,124 overissuance, less any amounts already recouped or collected, in accordance with Department policy.

JM/nr



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.
Jackson, MI
49201

Jackson County DHHS- via electronic mail

M. Shumaker- via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
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Lansing, MI
48909

Petitioner

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