



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: December 12, 2018
MAHS Docket No.: 18-011349
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), 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 telephone hearing was held on December 5, 2018, from Detroit, Michigan. The Department was represented by Julie Barr, Recoupment Specialist. The Petitioner was represented by herself.

ISSUE

Did Petitioner receive an overissuance (OI) 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 food assistance (FAP) benefits from the Department.
2. The Department alleges Petitioner received a FAP benefit OI during the period August 2015, due to **Department's** error.
3. The Department alleges that Petitioner received \$315 OI that is still due and owing to the Department.
4. The Petitioner advised the Department by a change report that her hours had increased to 40 hours a week, as well as providing notice from her employer.

The change was provided to the Department June 22, 2015. (Exhibit A, pp. 43-47.) The Petitioner timely reported the change in job hours increase which occurred on June 15, 2015. (Exhibit A, p. 45.)

5. The Department alleged Petitioner received an OI of \$315 for August 2015 because she was only entitled to receive \$16.00.
6. The Department caseworker should have processed the reported change to affect assistance benefits for August 2015. Due to agency error, the Department did not timely process the reported change and affected September 2015 FAP benefits.
7. On November 2, 2018, the Department sent Petitioner A Notice of Overissuance showing an agency error and an OI of \$315.
8. The Petitioner was a simplified reporter and was advised by Notice of Case Action dated February 23, 2015, that she was a simplified reporter.
9. The Petitioner requested a timely hearing on [REDACTED], 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), 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.

In this case, the Department acknowledged that Petitioner timely reported the change in her work hours and timely notified the Department that her income would increase and did so in a timely manner on June 23, 2015. The Department received the change and failed to timely process the change for August 2015 but instead processed the change for September 2015. The Department sent the Petitioner a Notice of Overissuance on November 2, 2018, notifying her that she received an Agency Error caused OI of FAP benefits in the amount of \$315 due to the Department improperly processing the change.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (January 2018), p. 1. A client

error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or inaccurate information to the Department. BAM 700, pp. 4-6. An agency error OI is caused by incorrect actions by the Department, including delayed or no action, which result in the client receiving more benefits than they were entitled to receive. BAM 700, pp. 4-6. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (January 2016), p. 6; BAM 705 (January 2016), p. 6.

Employment income is considered in the calculation of a client's FAP eligibility and amount. BEM 556 (April 2018, pp. 1-6). FAP recipients who are simplified reporters are required to report income only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. BAM 200 (January 2017), p. 1. No other change reporting is required. BAM 200, p. 1. If the group has an increase in income, the group must determine its total gross income at the end of that month, and if the total gross income exceeds the group's SR income limit, the group must report this change to the Department by the 10th day of the following month. BAM 200, p. 1. The Department sends the client simplified reporting information which explains the reporting requirements based on their circumstances at the time of issuance. The DHS-1605 Notice of Case Action is sent to provide the specific income limit for the group based on the group size. BAM 200, p. 2. For failure to report income over the limit, the first month of the overissuance is two months after the actual monthly income exceeded the limit. BAM 200, pp. 5-6.

In support of its FAP OI case, the Department presented FAP OI Budget for the OI period (August 2015.) to show how the \$315.00 OI was calculated. Medical expenses were not deducted by the Department; and in this case, that was correct, as the Petitioner does not get a deduction for medical premiums she pays unless she is a senior/over 65, or disabled or a veteran. See BEM 554 (August 2017), p. 8. At the hearing, the OI budget for August 2015 was reviewed; and it was determined by the Department that an error was made because the reported income of \$2,057 was treated as unreported income; and the Department did not reduce the income by 20% as required by the earned income deduction; and thus, the OI would have been less. See BEM 550, (January 2017), p. 1. Based on this error, the Department must recalculate the OI amount and apply the 20% earned income on all reported earned income for August.

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 Petitioner; however, the Department must recalculate and correct the OI amount.

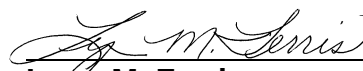
DECISION AND ORDER

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to recalculate the OI amount for August 2015 in accordance with this Hearing Decision to correct the earned income total, and apply the 20% earned income deduction to all the earned income for August 2015.

The Department is further Ordered to initiate collection procedures for the recalculated OI in accordance with Department policy.

LMF/



Lynn M. Ferris
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

Joan King
MDHHS-Delta-Hearings

DHHS Department Rep.

MDHHS-Recoupment

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

M Shumaker
L M Ferris
MAHS