



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: December 18, 2018
MAHS Docket No.: 18-011567
Agency No.: ██████████
Petitioner: ██████ ██████

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 December 12, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Vicki DeKruger, Recoupment Specialist. During the hearing, a 77-page packet of documents was offered and admitted as Exhibit A, pp. 1-77.

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 an ongoing recipient of FAP benefits.
2. From April 1, 2018, through October 31, 2018, Petitioner received \$█████ per month in FAP benefits. Over that time period, Petitioner received \$█████ in FAP benefits. Exhibit A, p. 58.
3. The Department's calculation of Petitioner's monthly FAP benefits for April 1, 2018 through October 31, 2018 was premised on a monthly income of \$█████ Exhibit A, pp. 28-31.
4. Each month from April 1, 2018 through October 31, 2018, Petitioner received RSDI income of \$█████ Exhibit A, pp. 32-48.

5. On October 18, 2018, a Department worker completed an Overissuance Referral, Form 4701, and the matter was forwarded to Ms. DeKruger. Exhibit A, pp. 49-53.
6. On October 23, 2018, Ms. DeKruger issued to Petitioner a Notice of Overissuance, Forms 4358-A through 4358-D. Exhibit A, pp. 73-77.
7. On [REDACTED] [REDACTED] [REDACTED] Petitioner submitted to the Department a request for hearing objecting to the Department's finding that Petitioner was overissued FAP benefits in 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), 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 \$ [REDACTED] overissuance of FAP benefits issued to Petitioner. The Department alleges that the overissuance was caused by Petitioner's error in failing to report the RSDI income to the Department. The Department now seeks to recoup and/or collect that amount from Petitioner. Petitioner contends that she did report the RSDI income to the Department and that her worker simply ignored her report and refused to communicate with her on the issue.

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. 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. A client error overissuance occurs when the client receives more benefits than he or she was entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 6. An agency error overissuance is caused by incorrect action (including delayed or no action) by the Department. BAM 705 (October 2018), p. 1. Regardless of whether the overissuance was caused by client error or agency error, the Department must attempt to establish any alleged overissuance over \$250. BAM 700, p. 5; BAM 715, p. 7.

In this case, Petitioner received a total of \$ [REDACTED] in FAP benefits for the time period of April 1, 2018, through October 31, 2018. Petitioner's monthly FAP benefit amount was calculated by the Department based on Petitioner having \$ [REDACTED] in income. However, at that time, Petitioner was receiving \$ [REDACTED] per month in RSDI income. By not factoring

in Petitioner's proper income, the Department mis-calculated Petitioner's monthly FAP allotment and overissued FAP benefits to Petitioner. Thus, the Department has presented sufficient evidence to establish that there was an overissuance of FAP benefits from April 1, 2018, through October 31, 2018.

To demonstrate how the Department came up with the \$ [REDACTED] overissuance amount, the Department presented FAP overissuance budgets for the period of April 2018 through October 2018. The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of Petitioner's RSDI income. In each of the months, Petitioner's income is sufficiently high that she was not entitled to any FAP benefits. Based upon the evidence presented at the hearing, the Department correctly concluded that Petitioner received an overissuance of FAP benefits of \$ [REDACTED] from April 1, 2018, through October 31, 2018.

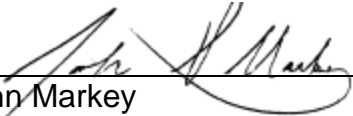
Petitioner was adamant that she reported the RSDI income to the Department. After reviewing the record, the undersigned is persuaded that Petitioner reported the RSDI income. Thus, this is an agency error, as opposed to a client error, overissuance. Petitioner tried on numerous occasions to communicate with the Department and ensure that her case was being properly handled, but her attempts were less than fruitful. Despite reporting the income properly, the fact remains that the income was not properly budgeted, resulting in an overissuance of FAP benefits to Petitioner. As Department policy requires the Department to attempt to collect even under those circumstances, the Department's decision must still be affirmed.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with policy when it determined Petitioner was overissued FAP benefits each month from April 1, 2018 through October 31, 2018, totaling \$ [REDACTED]. Accordingly, the Department's decision is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a \$ [REDACTED] agency error 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

DHHS Department Rep.

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

Petitioner

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