



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: April 18, 2019
MAHS Docket No.: 19-002573
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 17, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Overpayment Specialist, Patrick Lynaugh, and Recoupment Specialist, Michele Welch, appeared for the Michigan Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 106-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Does Petitioner owe the Department a debt for Food Assistance Program (FAP) assistance that was overissued to her?

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 is a FAP benefit recipient.
2. From February 2015 through June 2017, the Department issued FAP benefits to Petitioner based on a group size of two, including Petitioner and her grandson.
3. The Department investigated Petitioner's case and determined that it erroneously excluded Petitioner's son from her group when it determined her FAP benefits. The Department determined that Petitioner's son had income which should have

been budgeted when the Department determined Petitioner's FAP benefit amount, and the Department determined that the unreported income caused the Department to overissue Petitioner FAP benefits.

4. On February 13, 2019, the Department issued a Notice of Overissuance to Petitioner to notify her that she was overissued \$4,475.00 in FAP benefits from February 2015 through June 2017.
5. On March 12, 2019, Petitioner filed a hearing request to dispute 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), 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.

An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. BAM 700 (October 1, 2018), p.1. When a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance. BAM 700, p. 1. Here, the Department alleged that Petitioner received an overissuance because her son was living with her and he had income which should have been counted. The Department did not present sufficient evidence to support its allegation that Petitioner's son was actually living with Petitioner during the relevant time period. Petitioner denied that her son was living with her, and the Department did not present any reliable evidence to contradict Petitioner.

The Department's only evidence was a case comment created by someone who was not at the hearing which documented that Petitioner made a statement indicating that her son had been living with her. Petitioner's statement contained within this case comment is hearsay and unreliable without some corroboration. The Department did not present any evidence to corroborate the statement, so the statement cannot be used to establish the Department's allegation.

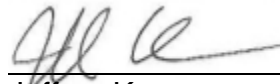
DECISION AND ORDER

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 has not established that Petitioner received an overissuance of FAP benefits.

IT IS ORDERED that the Department's Notice of Overissuance is REVERSED.

IT IS FURTHER ORDERED that the Department shall begin to implement this decision within 10 days.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, 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

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2145 East Huron Road
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Kent County DHHS- via electronic mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

DHHS

Kimberly Kornoelje
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Petitioner

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