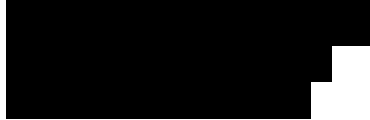




RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 7, 2017
MAHS Docket No.: 17-009968
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 6, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator, and Denise Beard, Overpayment Specialist.

ISSUES

1. Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?
2. Did Petitioner receive an overissuance of Family Independence Program (FIP) 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 FAP and FIP recipient.
2. On June 1, 2017, Petitioner submitted a change report to the Department indicating she had obtained new employment (Exhibit A).
3. Petitioner was a member of a household that consisted of herself and her minor child.

4. During the period of August 1, 2017, through October 31, 2017, Petitioner was issued a total of \$1,209 in FIP benefits.
5. During the period of August 1, 2017, through October 31, 2017, Petitioner was issued a total of \$990 in FAP benefits.
6. On July 18, 2017, the Department sent Petitioner a Notice of Overissuance which stated she had been overissued \$1,209 in FIP benefits for the period of August 1, 2017, through October 31, 2017, (Exhibit F).
7. On July 18, 2017, the Department sent Petitioner a Notice of Overissuance which stated she had been overissued \$990 in FAP benefits for the period of August 1, 2017, through October 31, 2017, (Exhibit G).
8. On July 28, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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).

In this case, Petitioner informed the Department that she had obtained new employment on June 1, 2017. However, the Department initially failed to budget the income in Petitioner's FAP and FIP cases for the period of August 1, 2017, through October 31, 2017. As a result, the Department determined Petitioner was overissued \$990 in FAP benefits and \$1,209 in FIP benefits for the period of August 1, 2017, through October 31, 2017.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8.

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of

Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

To determine the amount of FIP benefits a client is eligible to receive, income received by the certified FIP group is subtracted from the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 515 (October 2015), p. 1; BEM 518 (October 2015), p. 1. The payment standard is dependent on the client's FIP certified group size. BEM 515, p. 3. In this case, the Department testified that there were two individuals in Petitioner's FIP group. Based on a certified FIP group size of two, the applicable payment standard is \$403. RFT 210 (December 2013), p. 1.

For ongoing FIP recipients, the Department applies the issuance deficit test to determine whether the client is eligible for FIP and the amount of the FIP grant. The issuance deficit test compares (i) the group's budgetable income for the income month decreased by the issuance earned income disregard to (ii) the certified group's payment standard for the benefit month, or, in this case, \$403. BEM 518, p. 4. The issuance earned income disregard reduces each person's countable earnings by \$200 and then by an additional 50% of the person's remaining earnings. BEM 518, p. 6. If the issuance deficit test results in no deficit or a deficit of less than \$10, the client is ineligible for FIP for the benefit month. BEM 518, p. 4.

The Department testified it calculated Petitioner's income for the months of August through October 2017 by adding the payments received by Petitioner in those months listed on the Work Number report retrieved by the Department (Exhibit H). The Department presented FIP overissuance budgets to establish Petitioner was overissued FIP benefits (Exhibit D). For August 2017, the Department correctly determined Petitioner's income was \$3,290. When applying the issuance deficit test, Petitioner's FIP group was not entitled to receive benefits. For September 2017, the Department correctly determined Petitioner's earned income was \$4,864. When applying the issuance deficit test, Petitioner's FIP group was not entitled to FIP benefits. For October 2017, the Department correctly determined Petitioner's earned income was \$3,326. When applying the issuance deficit test, Petitioner's FIP group was not entitled to FIP benefits.

During the period of August 1, 2017, through October 31, 2017, Petitioner received \$1,209 in FIP benefits. As Petitioner was not entitled to those benefits, the Department established that Petitioner received an overissuance amount of \$1,209 in FIP benefits for the period of August 1, 2017, though October 31, 2017.

FAP

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.

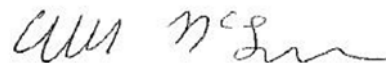
The Department testified that Petitioner was also not entitled to FAP benefits for the period of August 1, 2017, through October 31, 2017, as Petitioner's FAP group exceeded the gross income limit. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. Gross income limitations are based on group size and are set forth in RFT 250.

Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical income limit (200% of the poverty level), from RFT 250, column D (October 2016), p. 1, applies as the standard for FAP gross income eligibility. BEM 213 (January 2016), pp. 1-2. For a two-person FAP group, the applicable 200% gross income limit is \$2,656.

As stated above, the Department correctly determined Petitioner's gross income for the months of August through October 2017. All of the figures for those months exceeded the gross income limit for Petitioner's group size. The Department presented evidence that Petitioner received \$990 in FAP benefits for the period of August through October 2017. As Petitioner was not entitled to FAP benefits during that time period, the Department properly established Petitioner received an overissuance of FAP benefits in the amount of \$990.

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 Department policy when it determined Petitioner received an overissuance of FAP benefits in the amount of \$990 and an overissuance of FIP benefits in the amount of \$1,209 for the period of August 1, 2017, through October 31, 2017. Accordingly, the Department's decision is **AFFIRMED**.



EM/

Ellen McLemore

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) 335-6088; 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

MDHHS-Wayne-19-Hearings

Petitioner



BSC4
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