



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: December 5, 2017
MAHS Docket No.: 17-014142
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 30, 2017, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Recoupment Specialist, Alberta Kelley; and Eligibility Specialist, Cara Fettig. Both Ms. Kelley and Ms. Fettig testified on behalf of the Department. The Department submitted a total of 42 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly find Petitioner received 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. On August 21, 2017, Petitioner submitted a redetermination for Medicaid benefits. [Dept. Exh. 16-23].

2. On September 19, 2017, the Department issued a Health Care Coverage Determination approving Petitioner for full Medicaid coverage from October 1, 2017, ongoing. [Dept. Exh. 11-13].
3. On September 19, 2017, an OI referral was completed by the Department because FAP should have ended on May 31, 2017, but due to a Department error, Petitioner continued to receive FAP benefits. [Dept. Exh. 40].
4. On October 10, 2017, the Department issued a Notice of OI to Petitioner, informing Petitioner that she owed the Department \$2,086.00 due to an agency error issuing her FAP benefits in error, when she submitted her Medicaid redetermination. [Dept. Exh. 1].
5. Respondent allegedly received \$2,086.00 in FAP benefits from June 1, 2017, through October 31, 2017, due to a Department error. [Dept. Exh. 1].
6. On October 23, 2017, Petitioner submitted a hearing request, contesting the OI.
7. During the hearing in the above captioned matter, Petitioner admitted to receiving the \$2,086.00 on her Bridge card, but denied using it all, and requested a credit toward the alleged \$2,086.00 OI.
8. Recoupment Specialist Kelley explained that in order to have the monies credited back to the Department from Petitioner's Bridge card, Petitioner had to sign an Authorization to Remove Benefits.
9. Petitioner signed the Authorization to Remove Benefits during the hearing. The Department in turn removed \$1,103.43 from Petitioner's Bridge Card. Petitioner agreed on the record that she owed the remainder of \$982.57 that she received as an OI by the Department. [Dept. Exh. 41].

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.

Departmental policy, BAM 725, Collection Actions, states that when the client group receives more benefits than entitled to receive, DHHS must attempt to recoup the OI. Repayment of an OI is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. Bridges will collect from all adults who were a member of the case. OIs on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended.

In this case, Petitioner agreed she had received an OI of \$982.57, and methods of repayment were discussed with Petitioner.

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 found Petitioner had received an OI of FAP benefits.


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the OI and **REVERSED IN PART** with respect to the amount of \$2,086.00.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine the OI based on the determinations made during the hearing and the Authorization to Remove Benefits signed by Petitioner during the hearing.
2. Issue an updated Notice of Overissuance to Petitioner showing the corrected OI amount to be \$982.57

VLA/bb



Vicki Armstrong
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 Department Rep.

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

Monroe County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

DHHS

Pam Farnsworth
903 Telegraph
Monroe, MI 48161

Petitioner

