



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 20, 2017
MAHS Docket No.: 17-015167
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 December 19, 2017, from Detroit, Michigan. Petitioner was present with her son, [REDACTED]. The Department of Health and Human Services (Department) was represented by Amy Gearhart, Assistance Payments Supervisor, and Bernice Ray, Recoupment Specialist.

ISSUE

Did the Department properly issue a Notice of Balance Due for overissued Food Assistance Program (FAP) benefits?

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 previously issued FAP benefits.
2. On October 2, 2017, the Department sent Petitioner a Notice of Balance Due informing her that she owed \$153.
3. On October 25, 2017, Petitioner submitted a hearing request 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).

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.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 725 (October 2017), p. 1. The Department's Benefit Recovery System sends a collection notice when programs close with an outstanding overissuance if the claim is not already delinquent. BAM 725, p. 12. The Department sends a Notice of Balance Due the month after a client's benefit program with an outstanding overissuance balance closes or the client's last active benefit program closes and there is an outstanding overissuance in any program. BAM 725, p. 12.

The Department testified the Notice of Balance Due was sent to Petitioner in error. The Department could not locate an overissuance that was issued related to Petitioner's previous receipt of FAP benefits. The Department testified that an individual that used to reside at the same residence as Petitioner owes \$153 for FAP benefits that were overissued. The Department conceded that Petitioner does not owe \$153 and that the notice was sent to her in error. Therefore, the Department failed to establish that it followed policy when it sent Petitioner a Notice of Balance Due.

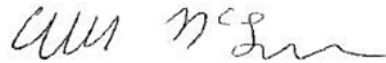
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it sent Petitioner a Notice of Balance Due for \$153.

Accordingly, the Department's decision is **REVERSED**.

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. Petitioner does not owe a balance of \$153 for an overissuance; and
2. The Department is ORDERED to delete any overissuance/balance due amounts and cease any recoupment and/or collection action.



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-StJoseph-Hearings

DHHS Department Rep.

MDHHS-Recoupment

Petitioner



M Shumaker
E McLemore
MAHS