



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

Date Mailed: June 1, 2018  
MAHS Docket No.: 17-017138  
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 May 29, 2018, from Detroit, Michigan. The Petitioner was present with her daughter/Arabic interpreter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Hiva Murray, Family Independence Specialist and Darcus Braswell, Recoupment Specialist.

**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. On [REDACTED], 2016, Petitioner completed a redetermination regarding her FAP benefit case (Exhibit A, pp. 5-10).
2. Petitioner's household included herself, her husband and her two children.
3. One of Petitioner's children was a full-time student at [REDACTED] and was not employed.
4. On [REDACTED], 2016, Petitioner submitted another redetermination regarding her FAP benefit case.

5. On September 20, 2017, the Department sent Petitioner a Notice of Overissuance informing Petitioner that she was overissued FAP benefits during the period of May 1, 2016 through April 30, 2017 in the amount of \$1,704.
6. On September 27, 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).

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, Petitioner submitted a redetermination on [REDACTED], 2016. In the redetermination, Petitioner stated that her household consisted of herself, her husband and her two children. Petitioner indicated in the redetermination that one of her children, who was 18 years old, was enrolled full-time at [REDACTED]. Petitioner also did not report any income for that child.

FAP budget calculations require the consideration of the group size. For FAP cases, a person enrolled in a post-secondary education program may be in student status, as defined by Department BEM 245 (April 2016), p. 2. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, p. 2. A person is in student status if he is: age 18 through 49 and enrolled half-time or more in a: vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate, or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245, pp. 2-3. In order for a person in a student status to be eligible for FAP benefits, she must meet certain criteria. BEM 245, p. 4. One of the criteria is that the individual is employed at least 20 hours per week and paid for such employment. BEM 245, p. 4.

Despite the information provided by Petitioner, the Department included both of Petitioner's children in her FAP group. Petitioner's child that was enrolled full-time in college was not employed at least 20 hours per week. It was also not alleged that Petitioner's child met any other criteria under BEM 245 that would make her eligible for FAP benefits. As such, the Department testified that Petitioner's child was improperly included in the FAP group. The Department testified that Petitioner was overissued

benefits for the period of May 1, 2016 through April 30, 2017, due to the Agency's failure to exclude Petitioner's child from the FAP group.

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.

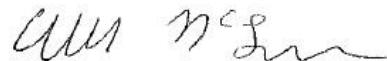
The Department presented redeterminations submitted by Petitioner on [REDACTED], 2016 and [REDACTED], 2016. In both redeterminations, Petitioner indicated her child was 18 years old and was enrolled full-time in college. Petitioner also did not report any income for that child. Additionally, Petitioner's daughter confirmed that information at the hearing. As such, the Department properly determined Petitioner's daughter should not have been included in the FAP group during the period of May 1, 2016 through April 30, 2017 and that Petitioner was overissued benefits as a result of Agency error.

The Department presented Petitioner's Benefit Summary, which showed she was issued \$7,031 in FAP benefits for the period of May 1, 2016 through April 30, 2017. The Department presented overissuance budgets for the period May 2016 through April 2017. The Department recalculated Petitioner's FAP benefits by reducing the group size from four to three. The budgets show that for the period of May 2016 through April 2017, Petitioner should have only received \$5,327 in FAP benefits. Therefore, the Department established it properly determined Petitioner was overissued FAP benefits in the amount of \$1,704.

### **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 \$1,704. Accordingly, the Department's decision is **AFFIRMED**.

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**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) 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

**Via Email:**

MDHHS-Wayne-19-Hearings  
MDHHS-Recoupment-Hearings  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MAHS

**Petitioner – Via First-Class Mail:**

