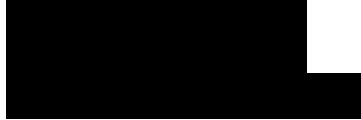




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 5, 2018
MAHS Docket No.: 18-002158
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 April 4, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Bobbi Dixon, Policy Specialist and Rebecca Webber, 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. Petitioner was an ongoing FAP recipient for the period of January 9, 2015 through August 2015 (Exhibit J). Petitioner was a member of a household that consisted of herself and her daughter.
2. Petitioner's son was an ongoing FAP recipient for the periods of February 9, 2015 through December 2015 and January 7, 2016 through July 2016 (Exhibit J). Petitioner's son was in a FAP group that consisted solely of himself.
3. In January 2016, the Department received a Front-End Eligibility (FEE) investigation referral that Petitioner's son was living in her home (Exhibit M).

4. Petitioner had income from employment (Exhibit K).
5. On November 22, 2017, the Department sent Petitioner a Notice of Overissuance which stated she had been overissued benefits in the amount of \$4,749 for the period of January 1, 2015 through July 31, 2016 (overissuance period).
6. On February 20, 2018, 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 requested a hearing disputing the Department's Notice of Overissuance. Specifically, Petitioner disagreed with the Department's determination that her son should be included in her FAP group. The Department determined that Petitioner received an overissuance of FAP benefits for the period of January 1, 2015 through July 31, 2016 in the amount of \$4,749. The Department presented Petitioner's Benefit Issuance Summary which showed she was issued FAP benefits for the period of January 9, 2015 through August 2015. Petitioner was approved for benefits based on a group size of two, which included Petitioner and her daughter (Exhibit C). Petitioner's son received FAP benefits during the period of February 9, 2015 through December 2015 and January 7, 2016 through July 2016, based on a group size of one. In January 2016, the Department received a FEE referral stating Petitioner's son also lived in the home with Petitioner. Petitioner's son was under the age of 22 at the time that he received benefits.

FAP budget calculations require the consideration of the group size. The Department will determine who must be included in the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. BEM 212 (January 2017), p. 1. The FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212, p. 6. Parents and their children under 22

years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212, p. 1.

The Department determined that Petitioner's son lived in her home during the overissuance period. As Petitioner's son was under the age of 22, he was Petitioner's mandatory group member. The Department added Petitioner's son to her FAP group to determine the amount of benefits that were overissued.

In support of its contention that Respondent's son was living in her home, the Department presented Petitioner's FAP application submitted on [REDACTED], 2015. In the application, Respondent indicated her home address was at [REDACTED]. The Department also presented a multitude of Petitioner's son's employment records showing he listed his address at [REDACTED] (Exhibit L). Specifically, the employment records show that during the overissuance period, Petitioner's son worked at [REDACTED], [REDACTED] and [REDACTED]. Respondent's son reported to all of his employers during the overissuance period that his address was at [REDACTED]. The Department also presented Facebook posts made by Petitioner and Petitioner's son indicating that Petitioner's son lived with Petitioner (Exhibit N).

Additionally, the Department presented evidence that Respondent was using her son's FAP benefits. The Department presented Petitioner's son's Electronic Benefit Transfer (EBT) purchase history, which showed his card was utilized at [REDACTED] on March 12, 2016 at 14:58:05 and at [REDACTED] on November 9, 2015 at 15:22:31. The Department subpoenaed video surveillance from both [REDACTED] and [REDACTED] for the time period in which the transactions occurred (Exhibit P). The Department presented the surveillance footage which showed that Petitioner was the individual completing the transactions (Exhibit R). The Department argued that Petitioner and her son were purchasing food together, which further evidenced that Petitioner's son was residing in her home.

Petitioner testified that her son had a closed head injury, and as a result, has significant behavioral problems. Petitioner stated her son primarily resides with her parents but will stay with her on and off. Petitioner testified that she would grocery shop on behalf of her son, after which he would take the groceries to the location at which he was residing. However, in Petitioner's hearing request, Petitioner stated, "I never used his Bridge Card or I never had it in my possession" in reference to her son's EBT card. That statement directly contradicts the Department's evidence and Petitioner's own statements at the hearing. Therefore, Petitioner's testimony was not credible.

As Petitioner's testimony was not credible, only the Department's evidence was considered. Considering the employment records, the Facebook posts and Petitioner's utilization of her son's FAP benefits, the Department provided sufficient evidence that Petitioner's son lived in her home. Therefore, the Department acted in accordance with policy when it added Petitioner's son to Petitioner's 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. In support of

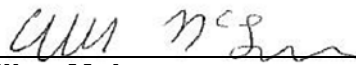
its contention that Petitioner was overissued benefits, the Department presented overissuance budget showing the amount of benefits Petitioner should have received based on the correct group size. The Department also added Petitioner's unreported income from her income from employment (Exhibit K). The Department correctly determined Petitioner was overissued FAP benefits in the amount of \$4,749.

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 was overissued FAP benefits in the amount of \$4,749 during the overissuance period. Accordingly, the Department's decision is **AFFIRMED**.

The Department is ORDERED to initiate recoupment/collection procedures for the amount of \$4,749, less any amounts already recouped/collected, in accordance with Department policy.

EM/cg



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

Via Email:

MDHHS-St. Clair-Hearings
MDHHS-Recoupment
M. Holden
D. Sweeney
BSC2-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

