



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 25, 2016
MAHS Docket No.: 15-010246
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Respondent'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10 After due notice, telephone hearing was held on April 14, 2016, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] (Recoupment Specialist).

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence.

ISSUE

Did the Department properly determine that the Respondent received an overissuance of 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. On January 19, 2011, the Department received the Petitioner's application for Food Assistance Program (FAP) benefits and she reported that the benefit group was not receiving any earned income. Exhibit A, pp 52-81.
2. The Respondent was employed and received earned income from April 29, 2011, through December 30, 2011. Exhibit A, pp 23-126.
3. The Respondent was an ongoing FAP recipient from June 1, 2011, through December 31, 2011, and she received benefits totaling \$ [REDACTED] Exhibit A, p 6.

4. If the Respondent's earned income has been reported to the Department in a timely manner, she would have been eligible for FAP benefits totaling \$ [REDACTED] Exhibit A, pp 8 – 21.
5. On June 12, 2015, the Department sent the Respondent a Notice of Overissuance (DHS-4358) with notice of the Department's intent to recoup a \$ [REDACTED] overissuance of FAP benefits that were issued from June 1, 2011, through December 31, 2011. Exhibit A, p 1.
6. On June 23, 2015, the Department received the Respondent's request for a hearing.

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 it is entitled to receive, the Department must attempt to recoup the overissuance. An agency error is caused by incorrect action (including delayed or no action) by Department staff or Department processes. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. Client and agency errors are not pursued if the estimated amount is less than \$250 per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (May 1, 2014), pp 1-9.

Overissuance balances on inactive cases must be repaid by lump-sum or monthly cash payments unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (July 1, 2014), p 8.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported to the Department include starting or stopping employment. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2015), pp 1-20.

On January 19, 2011, the Department received the Petitioner's application for FAP benefits. On this application for benefits, the Petitioner reported that no earned income was being received by any of the members of her benefit group.

When the Respondent started new employment and began receiving earned income on April 29, 2011, it was not reported to the Department in a timely manner. The Respondent received earned income from April 29, 2011, through December 30, 2011, which was not used to determine her eligibility for continuing FAP benefits. If the Respondent had reported her earned income to the Department within 10 days of starting her employment, the Department would have applied this income towards her eligibility to receive FAP benefits no later than June 1, 2011.

From June 1, 2011, through December 31, 2011, the Respondent received FAP benefits totaling \$ [REDACTED]. If her earned income had been applied towards the determination of her FAP allotments, she would have only received \$ [REDACTED]. Therefore, the Respondent received a \$ [REDACTED] overissuance of FAP benefits.

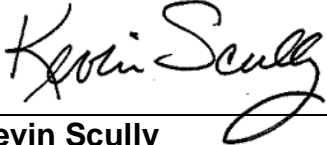
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a Food Assistance Program (FAP) benefit overissuance to Respondent totaling \$ [REDACTED].

DECISION AND ORDER

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

The Department is **ORDERED** to initiate collection procedures for a [REDACTED] overissuance in accordance with Department policy.

KS/las



Kevin Scully
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

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]