



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: March 20, 2017  
MAHS Docket No.: 17-002124  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

### **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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on March 15, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] [REDACTED] Hearing Facilitator.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly reduce Petitioner's monthly allotment 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 5, 2017, the Department notified Petitioner that her monthly allotment of Food Assistance Program (FAP) benefits would be reduced to \$ [REDACTED] as of February 1, 2017. Exhibit A, p 14.
2. Petitioner is eligible for a [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits that has been reduced to \$ [REDACTED] with \$ [REDACTED] of those benefits recouped by the Department. Exhibit A, p 10.
3. From April 1, 2015, through December 31, 2015, Petitioner received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits that was established on June 1, 2008. Exhibit A, pp 12-13.

4. There is a \$ [REDACTED] balance on the overissuance of Food Assistance Program (FAP) benefits not yet repaid to the Department. Exhibit A, p 13.
5. On February 10, 2017, the Department received Petitioner's request for a hearing protesting the reduction of her Food Assistance Program (FAP) benefits. Exhibit A, p 2-3.

### **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. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2016), p 1.

The standard administrative recoupment percentage for FAP is:

- 10 percent (or \$10, whichever is greater) for agency error.
- 10 percent (or \$10, whichever is greater) for client error.
- 20 percent (or \$20, whichever is greater) for intentional program violation.

Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (January 1, 2017), p 7.

Petitioner is an ongoing FAP recipient and she is eligible for a \$ [REDACTED] monthly allotment of FAP benefits, which was not disputed during the hearing. From this \$ [REDACTED] monthly allotment of FAP benefits, the Department is recouping \$ [REDACTED] and applying it towards Petitioner's obligation to repay a \$ [REDACTED] overissuance of FAP benefits due to client error that was established on June 1, 2008. Petitioner has a \$ [REDACTED] balance on this overissuance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

The hearing record does not establish how the overissuance of FAP benefits was established. The hearing record does demonstrate that there was a \$ [REDACTED] overissuance of FAP benefits due to client error that has been reduced to \$ [REDACTED]. Since Petitioner has paid \$ [REDACTED] towards the overissuance, it is reasonable that she has received prior notice of the overissuance. The Department's records indicate that the overissuance was established on June 1, 2008.

This Administrative Law Judge finds that the Petitioner failed to establish that she made a timely request for a hearing protesting the establishment of the overissuance of FAP benefits and that her request was not received by the Department within 90 days of the Department's notice of the overissuance.

Petitioner is eligible for a \$ [REDACTED] monthly allotment of FAP benefits and 10% of this amount is \$ [REDACTED]. The Department is entitled to recoup \$ [REDACTED] from Petitioner's ongoing FAP benefits as directed by BAM 725 to reduce her obligation to repay the established overissuance.

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 reduced Petitioner's monthly allotment of Food Assistance Program (FAP) benefits based on an unpaid overissuance of Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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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]

**Petitioner**

[Redacted]