



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: July 7, 2017
MAHS Docket No.: 17-007102
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 June 29, 2017, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] [REDACTED] Recoupment Specialist. Petitioner represented herself.

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 August 24, 2016, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a group of one. Exhibit A, pp 28-49.
2. Petitioner received Food Assistance Program (FAP) totaling \$ [REDACTED] from November 1, 2016, through January 31, 2017. Exhibit A, p 6.
3. Petitioner starting receiving unemployment compensation benefits on September 10, 2016, receiving \$ [REDACTED] in September and \$ [REDACTED] from October through December of 2016. Exhibit A, pp 17-20.
4. Petitioner's had employment end in September of 2016, but received ending earned income in the gross monthly amount of \$ [REDACTED] Exhibit A, p 21.

5. Petitioner started new employment in December of 2016, receiving a gross monthly income of \$ [REDACTED] and a gross monthly earned income of \$ [REDACTED] in January of 2017.
6. On September 14, 2016, the Department approved Petitioner for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment based on a \$ [REDACTED] monthly income. Exhibit A, pp 22-26.
7. On September 14, 2016, the Department notified Petitioner that her approval for ongoing Food Assistance Program (FAP) benefits was based on her income remaining below the simplified income limit of \$ [REDACTED] Exhibit A, p 24.
8. On May 1, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing her of its intent to recoup a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 1-5.
9. On May 30, 2017, the Department received Petitioner'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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016).

Simplified reporting groups are required to report only when the group's actual gross monthly income exceeds the simplified reporter income limit for their group size. No

other change reporting is required. Department of Health and Human Services Bridges Administrative Manual (BAM) 200 (January 1, 2017), p 1.

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 \$ [REDACTED] per program. Department of Health and Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2016), pp 1-16.

Overissuance balances on inactive cases must be repaid by lump-sum, monthly cash payments, or administrative recoupment unless collection is suspended. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (January 1, 2017), pp 5-14.

Petitioner applied for FAP benefits on August 24, 2016, and she was approved for a \$ [REDACTED] monthly allotment of FAP benefits based on a \$0 monthly income. Petitioner had reported ending income and received a final paycheck in the gross amount of \$ [REDACTED] in September of 2016. Petitioner began receiving unemployment compensation benefits in September of 2016, and received unemployment in the gross monthly amount of \$ [REDACTED] in October of 2016.

Petitioner then started employment and received gross monthly earned income of \$ [REDACTED] in December of 2016, and \$ [REDACTED] in January of 2017.

Petitioner was notified on September 14, 2016, that she was considered to be a simplified reporter and that the simplified reporter income limit was \$ [REDACTED]. No evidence was presented on the record that Petitioner reported her gross income exceeding the simplified reporter income limit for a group of one. If Respondent had reported her change of monthly income in a timely manner, the Department would have redetermined her eligibility for ongoing benefits by November 1, 2016.

Petitioner's unemployment compensation benefits in November of 2016, exceeded the simplified reporter limit and the gross monthly income limit. Petitioner was eligible for a \$ [REDACTED] monthly allotment of FAP benefits in November of 2016, and was not eligible for FAP benefits in December of 2016, or January of 2017, based on her actual income in each of those months.

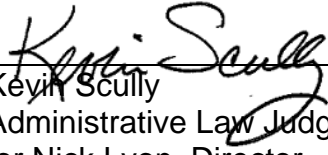
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a Food Assistance Program (FAP) benefit overissuance to Respondent totaling \$ [REDACTED].

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/nr



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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]