



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: August 14, 2017
MAHS Docket No.: 17-009189
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 August 9, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] [REDACTED] Recoupment Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determined that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that must be recouped?

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 May 3, 2016, the Department received Petitioner's completed Redetermination (DHS-1010) form where she reported a member of her benefit group returning to work. Exhibit A, pp 20-25.
2. A member of Petitioner's benefit group was employed and received earned income from May 13, 2016, through November 10, 2016, that was not applied towards the group's Food Assistance Program (FAP) eligibility. Exhibit A, p 26.
3. Due to Department error, the increase in household earned income was not used to determine her eligibility for ongoing Food Assistance Program (FAP) benefits.

4. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from July 1, 2016, through November 30, 2016. Exhibit A, pp 10-19.
5. If all the benefit group's countable income had been applied towards Petitioner's eligibility for Food Assistance Program (FAP) benefits then she would have been eligible for Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from July 1, 2016, through November 30, 2016. Exhibit A, pp 10-19.
6. On June 19, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing her that it intended to recoup a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-9.
7. On July 3, 2017, the Department received Petitioner's request for a hearing protesting a recoupment that would reduce her ongoing Food Assistance Program (FAP) benefits. Exhibit A, pp 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.

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 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 (July 1, 2017).

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, 2015), p 1.

Petitioner was an ongoing FAP recipient when she reported that a member of her household had returned to work. Due to Department error, this increase in household earned income was not applied towards her eligibility for ongoing FAP benefits. If the earned income this group member had received in May of 2016, had been properly applied towards the group's eligibility for FAP benefits then the Department would have redetermined Petitioner's eligibility for FAP benefits no later than July 1, 2016.

Petitioner received FAP benefits totaling \$ [REDACTED] from July 1, 2016, but would have been eligible for only \$ [REDACTED] if all countable household income had been properly handled by the Department. Therefore, Petitioner received a \$ [REDACTED] overissuance of FAP benefits. There is no evidence supporting a finding of fraud, but the evidence does support a finding that Petitioner received FAP benefits that she was not eligible for and the Department is required to recoup those benefits.

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 that Petitioner received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

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]

Petitioner

[REDACTED]