



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: August 14, 2017
MAHS Docket No.: 17-009205
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 August 9, 2017, from Lansing, Michigan. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] [REDACTED]. Petitioner represented herself and her son [REDACTED] [REDACTED] testified on her behalf. [REDACTED] a Department employee, acted as translator for Petitioner.

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. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from August 1, 2016, through November 30, 2016. Exhibit A, p 6.
2. A member of Petitioner's Food Assistance Program (FAP) benefit group started employment and received earned income from September 23, 2016, through November 25, 2016. Exhibit A, pp 17-18.
3. [REDACTED] started employment on July 18, 2016, and received earned income from August 2, 2016, through November 15, 2016. Exhibit A, pp 19-20.

4. If Respondent had reported all earned income received by members of her household then she would have been eligible for Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from August 1, 2016, through November 30, 2016. Exhibit A, pp 7-16.
5. On June 19, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing her of its intent to recoup Food Assistance Program (FAP) benefits totaling \$ [REDACTED]. Exhibit A, p 2.
6. On July 3, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of a Food Assistance Program (FAP) benefit overissuance. Exhibit A.

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 \$ [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 was a FAP recipient and received benefits totaling \$ [REDACTED] from August 1, 2016, through November 30, 2016. A member of Petitioner's FAP benefit group received earned income from September 23, 2016, through November 25, 2016. Another member of Petitioner's benefit group received earned income from August 2, 2016, through November 15, 2016.

However, due to Department error, none of this income was used by the Department to determine the household's eligibility for ongoing FAP benefits. The Department does not dispute that Petitioner reported all income that was received in the household, but due to Department error, the group continued to receive food assistance based on \$0 earned income. This error was not discovered until the Department compared Petitioner's information to information received electronically from the Unemployment Insurance Agency.

Petitioner received FAP benefits totaling \$ [REDACTED] from August 1, 2016, through November 30, 2016. If the Department had properly processed the income Petitioner had reported to the Department, then she would have been eligible for only \$ [REDACTED]. The Department is required to recoup the benefits Petitioner should not have been eligible for.

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] Food Assistance Program (FAP) 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]

Petitioner

[REDACTED]