



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 12, 2017
MAHS Docket No.: 17-010145
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 September 7, 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 determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup?

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 February 10, 2016, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a group of four. Exhibit A, pp 2-15.
2. On February 1, 2017, the Department referred Petitioner's case for investigation into a possible overissuance of Food Assistance Program (FAP) benefits it was discovered on February 1, 2017, that she was receiving earned income that was not being used to determine her eligibility for benefits. Exhibit A, p 11.
3. Petitioner started new employment on September 19, 2016, and received earned income from September 29, 2016, through February 2, 2017. Exhibit A, pp 24-27.

4. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from November 1, 2016, through January 31, 2017. Exhibit A, p 16.
5. If Respondent's earned income had been applied towards her eligibility for Food Assistance Program (FAP) benefits then she would have been granted benefits totaling \$ [REDACTED] from November 1, 2016, through January 31, 2017. Exhibit A, pp 17-23.
6. On July 18, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing her that she had received an \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 28-32.
7. On July 28, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of an overissuance from the Food Assistance Program (FAP) benefits.

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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (April 1, 2016), p 11. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (April 1, 2016), p 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

On February 10, 2016, the Department received Petitioner's application for FAP benefits. Petitioner received a \$ [REDACTED] monthly allotment of FAP benefits from November 1, 2016, through January 31, 2017, which is the maximum allotment of benefits available for a group of four not receiving any income. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2016), p 1.

On February 1, 2017, the Department was reviewing Petitioner's eligibility for ongoing FAP benefits when it was discovered that her earned income was not being applied towards her eligibility for FAP benefits. The Department did not dispute that Petitioner had reported that she started new employment on September 29, 2016, or that the Department should have been aware of the earned income she received from September 29, 2016, through January 31, 2017.

If the Department had redetermined Petitioner's eligibility for FAP benefits based on the best available information then her monthly allotment of FAP benefits would have been reduced by the first benefit period after October 31, 2017. If Petitioner's earned income had been applied towards her eligibility for FAP benefits then she would have been eligible for FAP benefits totaling \$ [REDACTED] from November 1, 2016, through January 31, 2017. Therefore, Respondent received an \$ [REDACTED] overissuance of FAP benefits.

Petitioner argued that she should not be held responsible for an error caused by no fault of her own.

However, the Department's policies and federal regulations require that overissuances of FAP benefits must be recouped. In this case, the Department presented competent, material, and substantial evidence that Petitioner received an overissuance of FAP benefits and the Department does not have discretion to not 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 an [REDACTED] overissuance of Food Assistance Program (FAP) benefits that it is required to recoup.

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]