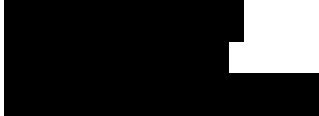




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: September 29, 2017  
MAHS Docket No.: 17-011077  
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 25, 2017, from Lansing, Michigan. The Petitioner was represented by herself. The Department was represented by [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 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 July 10, 2016, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 44-67.
2. Petitioner reported to the Department on her July 10, 2016, application for assistance that another household member was employed. Exhibit A, p 56.
3. On July 18, 2016, the Department notified Petitioner that she was approved for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits effective August 1, 2016, and a prorated allotment of \$ [REDACTED] for July 11, 2016, through July 31, 2016. Exhibit A, pp 37-42.

4. Petitioner's Food Assistance Program (FAP) benefits in July of 2016, were based on a total gross monthly income of \$ [REDACTED] Exhibit A, p 40.
5. Petitioner failed to report an increase of earnings when she started receiving earned income from Advisacare on May 20, 2016. Exhibit A, p 24.
6. Respondent received Food Assistance Program (FAP) benefits as a group of four totaling \$ [REDACTED] from July 1, 2016, through December 31, 2016. Exhibit A, p 20.
7. Petitioner was employed by Advisacare and received earned income from May 31, 2016, through September 6, 2016. Exhibit A, pp 24-27.
8. Petitioner received a varying amount of child support from February 1, 2016, through December 31, 2016. Exhibit A, pp 33-34.
9. A member of Petitioner's household received earned income from January 7, 2015, through January 18, 2017. Exhibit A, pp 28-32.
10. If Petitioner's actual income had been applied towards her eligibility to receive public benefits then she would have been eligible for Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from July 1, 2016, through December 31, 2016. Exhibit A, pp 6-19.
11. On August 9, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A), informing her that she had received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits during the period of July 1, 2016, through December 31, 2016. Exhibit A, pp 1-5.
12. On August 16, 2017, the Department received Petitioner's request for a hearing protesting the recoupmnet of her 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.

The Department received Petitioner's FAP application on July 10, 2016. Petitioner reported on her July 10, 2016, application for assistance that another household member was employed but failed to report that she had started employment on May 20, 2016, and received earned income through September 6, 2016. Petitioner was approved for FAP benefits with a prorated allotment for July 11, 2016, through July 31, 2016, and a \$ [REDACTED] monthly allotment starting on August 1, 2016, which was based on earned income in the gross monthly amount of \$ [REDACTED]. If Respondent had accurately reported her earned income to the Department she would not have been eligible for any FAP benefits from July 1, 2016, through August 31, 2016, because her the actual gross monthly income received in her household exceeded the \$ [REDACTED] gross monthly income limit for a group of four. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2015), p 1.

Petitioner's earned income decreased in September of 2016, and the groups gross monthly income dropped below the program limit. The group was eligible for FAP benefits totaling \$ [REDACTED] but actually received \$ [REDACTED] of FAP benefits.

In October of 2106, the earned income of a member of Petitioner's household received an increase in earned income that was not reported to the Department. This household member starting working at a separate work site of his employer and these extra earnings were not reported in a timely manner. Petitioner's FAP benefits were not based on the actual income the group was receiving causing her to receive an overissuance of FAP benefits from October 1, 2016, through December 31, 2016.

Petitioner did not dispute the Department's determination of her household's income. Petitioner denied any attempt to conceal her income from the Department.

The Department does not claim that Petitioner committed fraud, but the record evidence supports a finding that her FAP benefits were not based on the actual income received within her household. This income that was not used to determine her eligibility for FAP benefits caused her to received FAP benefits she would not have been eligible for if the Department had an accurate total of her household earnings.

The Department is required to recoup any benefits that a FAP recipient received if there was no eligibility to receive those benefits. BAM 700.

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 that must be recouped.

**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]