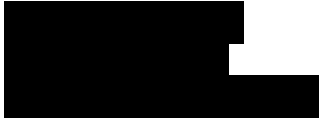




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 29, 2017
MAHS Docket No.: 17-011078
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] [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. Respondent was an ongoing Food Assistance Program (FAP) recipient as a group of four on June 1, 2015.
2. A member of Petitioner's Food Assistance Program (FAP) benefit group was employed and received earned income from July 1, 2015, through Jun 1, 2016. Exhibit A, pp 24-27.
3. A member of Petitioner's Food Assistance Program (FAP) benefit group had other employment and received earned income from January 8, 2016, through May 27, 2016. Exhibit A, pp 40-41.

4. Petitioner was employed and received earned income from June 5, 2015, through December 4, 2016. Exhibit A, pp 29-38.
5. Petitioner started other employment on May 20, 2016, and received earned income from May 31, 2016, through September 6, 2016. Exhibit A, p 45-48.
6. Petitioner received child support income from June 1, 2015, through March of 2016. Exhibit A, pp 42-43.
7. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from September 1, 2015, through May 31, 2016. Exhibit A, pp 19-20.
8. 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. Exhibit A, pp 1-5.
9. On August 16, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of 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.

Simplified reporting groups are required to report only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. No other change reporting is required. If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's simplified reporter income limit, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. Once assigned to simplified reporting, the group remains in simplified reporting throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for simplified reporting. The income limit is 130 percent of the poverty level

based on group size. Department of Health and Human Services Bridges Administrative Manual (BAM) 200 (December 1, 2013), pp 1-6.

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 as a group of four on June 1, 2015, and the Department considered her benefit group to be simplified reporters. Petitioner failed to report when her household gross monthly income for June of 2015, had exceeded the simplified reporting income limit of \$ [REDACTED]. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2014), p 1.

For September of 2015, the gross monthly income of Petitioner's household remained over the simplified reporter income limit. After accounting for Petitioner's expenses, the Department determined that Petitioner had received a net monthly income of \$ [REDACTED]. For a group of four, the net income limit to receive any FAP benefits was \$ [REDACTED] RFT 250 (October 1, 2014).

However, Petitioner received a \$ [REDACTED] monthly allotment of FAP benefits in September of 2015. Petitioner continued to receive FAP benefits and from September 1, 2015, through May 31, 2016, she received FAP benefits totaling \$ [REDACTED]. Based on her household income, Petitioner was not eligible for any of those benefits. Therefore, Respondent received a \$ [REDACTED] overissuance of FAP benefits.

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 cause 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 an overissuance of Food Assistance Program (FAP) benefits and is not required to recoup for the overpayment of 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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]