



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 29, 2017
MAHS Docket No.: 17-011079
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]

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 1, 2014, the Department received Petitioner's completed Redetermination (DHS-1010) form. Exhibit A, pp 1-6.
2. On July 31, 2014, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment based on \$ [REDACTED] housing expenses other than utilities. Exhibit A, pp 7-13.
3. The Department received a copy of Petitioner's lease that lists a \$ [REDACTED] monthly rent expense. Exhibit A, pp 14-17.
4. Petitioner's actual housing expenses obligation is \$ [REDACTED] which was reported on the July 31, 2014, Redetermination form. Exhibit A, pp 7-13.

5. On December 23, 2014, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment based on \$ [REDACTED] housing expenses plus utilities. Exhibit A, pp 18-21.
6. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from January 1, 2015, through July 31, 2015.
7. On July 18, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A)
8. On August 3, 2017, the Department received Petitioner's request for a hearing protesting the recoupment 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, 2015), p 1.

Petitioner was an ongoing FAP recipient when the Department received her completed Redetermination form on July 1, 2014. On July 31, 2014, the Department notified Petitioner that she was approved for FAP benefits with a \$ [REDACTED] monthly allotment based on [REDACTED] housing expenses other than her obligation to pay for utilities.

Later, the Department received a copy of Petitioner's lease that lists a \$ [REDACTED] monthly rent expense. On December 23, 2014, the Department notified Petitioner that she was approved for FAP benefits with a \$ [REDACTED] monthly allotment based on housing expenses of \$ [REDACTED] plus utilities.

Petitioner receive FAP benefits totaling \$ [REDACTED] from January 1, 2015, through July 31, 2015.

However, the information the Department obtained from Petitioner's lease and applied towards its determination of her eligibility for ongoing FAP benefits was incomplete. Petitioner lease indicates that the monthly rent expenses is \$ [REDACTED] per month, but

Petitioner only has an obligation to pay \$ [REDACTED] per month. The remainder of Petitioner's lease is covered by [REDACTED] Housing Commission.

Due to Department error, Petitioner received FAP benefits totaling \$ [REDACTED] from January 1, 2015, through July 31, 2015. These benefits were based, in part, on Petitioner having a \$ [REDACTED] monthly housing expenses although her actual obligation was only \$ [REDACTED]. If the Department had accurately applied Petitioner's monthly housing obligation towards her eligibility for FAP benefits, she would have received FAP benefits totaling \$ [REDACTED] during that same period. Therefore, Respondent received a \$ [REDACTED] overissuance of FAP benefits.

There is no evidence in this case that Petitioner concealed that her obligation to pay rent was less than the Department assumed from its inspection of the lease document submitted as verification. Although Petitioner was not at fault, she is not entitled to receive FAP benefits that she was not eligible for. Since Petitioner received an overissuance of FAP benefits, the Department is required to recoup the overpayment of FAP 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 that must be recouped.

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]