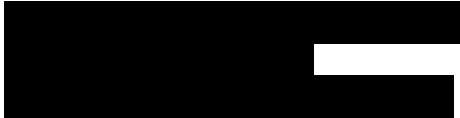




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: October 2, 2017  
MAHS Docket No.: 17-010893  
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 [REDACTED] Michigan. The Petitioner represented himself. 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 August 16, 2014, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit B.
2. Petitioner acknowledged under penalties of perjury that his August 16, 2014, application form was examined by or read to him, and, to the best of his knowledge, contained facts that were true and complete. Exhibit B.
3. On his August 16, 2014, application for assistance, Petitioner reported to the Department that his wife was absent from his home. Exhibit B.
4. On June 30, 2015, the Department received Petitioner's completed Redetermination (DHS-1010) form. Exhibit C.

5. Petitioner acknowledged under penalties of perjury that his June 30, 2016, redetermination form was examined by or read to him, and, to the best of his knowledge, contained facts that were true and complete. Exhibit C.
6. Petitioner reported on his June 30, 2016, Redetermination form that his wife had left the household in July of 2014. Exhibit C.
7. On June 30, 2016, the Department received Petitioner's completed Redetermination (DHS-1010) form. Exhibit D.
8. Petitioner acknowledged under penalties of perjury that his June 30, 2016, redetermination form was examined by or read to him, and, to the best of his knowledge, contained facts that were true and complete. Exhibit D.
9. Petitioner reported on his June 30, 2016, Redetermination form that his household consisted of himself and four children. Exhibit D.
10. Petitioner's wife was employed and received earned income from June 28, 2014, through March 18, 2017. Exhibit A.
11. Petitioner's wife reported to her employer that she was living at Petitioner's home. Exhibit A.
12. On September 5, 2016, Petitioner signed a school emergency information card for one his children reporting to the school that his wife was living in his home. Exhibit E.
13. A December 19, 2016, police report indicates that Petitioner and his wife were living at the same address. Exhibit F.
14. A delinquency complaint filed on one of Petitioner's children in the [REDACTED] lists Petitioner and his wife as living in the same household. Exhibit G.
15. On February 10, 2014, Petitioner and his wife entered into a mortgage on the home listed as Petitioner's residence. Exhibit K.
16. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from August 1, 2014, through February 28, 2017. Exhibit H.
17. On August 1, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing him that he had received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit F.
18. On August 9, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of his Food Assistance Program (FAP) benefits. Exhibit J.

### **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.

Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the children have their own spouse or child who lives with the group. Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), pp 1-3.

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 has been a FAP recipient from August 1, 2014, through February 28, 2017, and he received FAP benefits totaling \$ [REDACTED] during that period. Petitioner asserted that the information he provided to the Department to determine his eligibility for FAP benefits examined by or read to him, and to the best of his knowledge, contained facts that were true and complete. Petitioner reported to the Department that his wife left his household in July of 2014. After the Department removed Petitioner's wife from his benefit group, Petitioner received FAP benefits as part of a benefit group made up of himself and his children.

However, the evidence presented on the record does not support a finding that Petitioner's wife was not living in his household. As Petitioner's spouse, and the parent of children living in the home, Petitioner's spouse is considered a mandatory FAP group member under BEM 212, even if she was lonely living in Petitioner's home during part of each month.

Petitioner's wife had reported Petitioner's address as her home to her employer. Petitioner reported to her children's school that she was living with Petitioner. A police report summarizing an incident with one of Petitioner's children indicates that Petitioner and his wife live together. A delinquency complaint filed in the [REDACTED] lists Petitioner and his wife living together in the same household.

On February 10, 2014, Petitioner and his wife entered into a mortgage on the home listed as Petitioner's residence.

Petitioner testified that he did not want his children to know that he was separated from his wife, and that his wife was staying elsewhere while attending college classes. Petitioner failed to provide any evidence supporting his testimony. Petitioner testified that the documentation showing that his wife lived at this residence was falsified to give his children the belief that their mother intended to maintain residence with the family.

This Administrative Law Judge finds that the evidence does not support Petitioner's claims and that his wife was living in his residence as defined by BEM 212.

Petitioner received FAP benefits totaling \$ [REDACTED] from August 1, 2014, through February 28, 2017. As a mandatory member of Petitioner's FAP benefit group, the income of Petitioner's wife should have counted towards the eligibility of the FAP benefit group. If the actual income received by Petitioner's wife was applied towards the FAP group's eligibility for FAP benefits each month, the group would have been eligible for only \$ [REDACTED] of FAP benefits from August 1, 2014, through February 28, 2017. Therefore, Petitioner received a \$ [REDACTED] overissuance 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 the Department is required to recoup.

### **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]