



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 26, 2017
MAHS Docket No.: 17-012268
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 October 18, 2017, from [REDACTED] Michigan. The Petitioner represented herself. The Department was represented by [REDACTED]

ISSUE

Did the Department of Health and Human Services (Department) properly determined 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 November 14, 2016, the Department received Petitioner's application for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits. Exhibit A, pp 53-88.
2. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from March 1, 2017, through August 31, 2017. Exhibit A, pp 35-36.
3. Petitioner was employed and received earned income from January 20, 2017, through August 4, 2017. Exhibit A, p 52.
4. If the Department had applied Petitioner's actual earned income towards her eligibility for Food Assistance Program (FAP) benefits, she would have been eligible for Food Assistance Program (FAP) benefits totaling \$ [REDACTED] Exhibit A, pp 14-26.

5. On September 1, 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 due to her error. Exhibit A, pp 28-32.
6. On September 12, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, Exhibit A, p 2.
7. On September 21, 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, which had been reclassified as department error. Exhibit A, pp 6-10.

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.

Petitioner applied for FAP and CDC benefits on November 14, 2016. Petitioner had been off work but reported to the Department that she had returned to work, and therefore was once again in need of CDC benefits.

Petitioner received FAP benefits totaling \$ [REDACTED] from March 1, 2017, through August 31, 2017. These benefits were based on a benefit group of three not receiving any monthly income.

The Department does not dispute that Petitioner reported returning to work in a timely manner. Therefore, it was due to the Department's error that Petitioner continued to receive FAP benefits without consideration of the earned income she began receiving on January 20, 2017.

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.

If the Department had properly processed the earned income Petitioner received on January 20, 2017, her eligibility for ongoing FAP benefits would have been redetermined by the benefit period after February 21, 2017.

Petitioner received FAP benefits totaling \$ [REDACTED] from March 1, 2017, through August 31, 2017. If the Department had properly accounted for Petitioner's earned income then she would have been eligible for FAP benefits totaling \$ [REDACTED]. Therefore, Petitioner received a \$ [REDACTED] overissuance of FAP benefits.

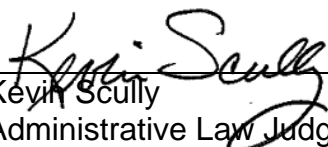
There was no evidence of fraud presented on the record and the Department does not dispute that the overissuance was caused by Department error. Despite the fact that Petitioner was not at fault, the evidence supports a finding that she did receive FAP benefits that she was not eligible for and the Department is required to recoup that overpayment of 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]