



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: November 2, 2017  
MAHS Docket No.: 17-012900  
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 30, 2017, from [REDACTED] Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] Recoupment Specialist.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determined that Petitioner received an overissuance of Food Assistance Program (FAP) 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 June 7, 2016, Petitioner was an ongoing Food Assistance Program (FAP) recipient when the Department received her completed Redetermination (DHS-1010) form. Exhibit A, pp 4-9.
2. On Jun 9, 2016, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits as a group of one. Exhibit A, pp 10-13.
3. On May 19, 2017, the Department received Petitioners completed Redetermination (DHS-1010) form. Exhibit A, pp 14-21.

4. Petitioner reported to the Department on her May 19, 2017, Redetermination form that she was a full time college student since October of 2016. Exhibit A, p 16.
5. From December 1, 2016, through June 30, 2017, Respondent received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] Exhibit A, p 25.
6. If Petitioner had reported to the Department that she was a full time college student then she would not have been eligible for any Food Assistance Program (FAP) benefits from December 1, 2016, through June 30, 2017. Exhibit A, pp 16-33.
7. On August 31, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing her that it would recoup a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 34-38.
8. On September 25, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 2.

### **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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include enrollment in college. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2016), pp 1-20.

A person is in student status if age 18 through 49 and enrolled half-time or more in a vocational, trade, business, or technical school or college or university that offers degree programs regardless of whether a diploma is required. In order for a person in student status to be eligible, they must meet the criteria listed in the student status

policy. Department of Human Services Bridges Eligibility Manual (BEM) 245 (October 1, 2016), pp 3-5.

Petitioner was an ongoing FAP recipient when she started attending college classes in October of 2016. The Department became aware that Petitioner was a full time student when she submitted her Redetermination form on May 19, 2017. Petitioner failed to report this change in her circumstances in a timely manner.

Petitioner was a FAP recipient as a group of one and receiving the maximum allotment of FAP benefits allowed by policy with no reported income. No evidence was presented on the record that Petitioner met any of the requirements for a college student to received FAP benefits such as employment, work study, or caring for a minor child.

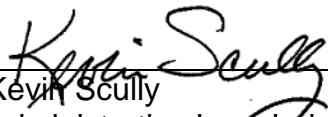
If Petitioner had reported that she was a full time student to the Department then she would not have been eligible for any of the \$ [REDACTED] of FAP benefits she received from December 1, 2016, through June 30, 2017. Since Petitioner had a duty to report circumstances that affected her eligibility to received ongoing FAP benefits, Petitioner received an overissuance of FAP benefits due to client error.

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]