



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 22, 2018
MAHS Docket No.: 18-000288
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 February 14, 2018, from [REDACTED] Michigan. Petitioner represented herself. The Department was represented by [REDACTED] Overpayment 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. On December 19, 2014, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 7-30.
2. On October 6, 2015, the Department received Petitioner's Redetermination (DHS-1010) where she reported that [REDACTED] was living in her household and that [REDACTED] had been convicted of more than one drug-related felony after August 22, 1996. Exhibit A, pp 31-26.
3. On October 21, 2015, the Department notified Petitioner that effective November 1, 2015, her Food Assistance Program (FAP) benefit group would increase to three and her monthly allotment of benefits would increase to \$ [REDACTED] Exhibit A, pp 43-48.

4. On September 30, 2016, the Department received Petitioner's Redetermination (DHS-1010) where she reported that household member [REDACTED] had been convicted of more than one drug-related felony after August 22, 1996. Exhibit A, pp 37-41.
5. On June 11, 2016, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) as a group of three including [REDACTED] Exhibit A, pp 49-52.
6. On September 14, 2016, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits as a group of three including [REDACTED] Exhibit A, pp 43-56.
7. On October 11, 2016, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits as a group of three including [REDACTED] Exhibit A, pp 57-62.
8. [REDACTED] pled guilty on [REDACTED], to Possession of a Controlled Substance Under 25 Grams. Exhibit A, pp 65-66.
9. [REDACTED] pled guilty on [REDACTED], to Possession of a Controlled Substance Under 25 Grams. Exhibit A, pp 67-68.
10. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from January 1, 2016, through December 31, 2016. Exhibit A, pp 71-72.
11. Petitioner would have been eligible for Food Assistance Program (FAP) benefits totaling \$ [REDACTED] if [REDACTED] had been permanently disqualified from receiving those benefits. Exhibit A, pp 106-126.
12. On December 27, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) showing that she had received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 126-230.
13. On January 9, 2018, the Department received Petitioner's request for a hearing protesting the recoupment of her Food Assistance Program (FAP) benefits. Exhibit A, p 5.

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 (January 1, 2018), p 1.

An individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. Department of Health and Human Services Bridges Eligibility Manual (BEM) 203 (January 1, 2018), p 2.

On October 6, 2015, the Department received Petitioner's Redetermination (DHS-1010) form where she reported that [REDACTED] was living in her home. Petitioner also disclosed to the Department that [REDACTED] had more than one drug-related felony conviction after August 22, 1996.

Due to Department error, [REDACTED] was not permanently disqualified from FAP in accordance with BEM 203, and Petitioner continued to receive FAP benefits with [REDACTED] included in the FAP benefit group. It is not disputed that Petitioner properly reported [REDACTED] criminal history in a timely manner or that this information that affected her eligibility for FAP benefits was available to the Department. As a result, Petitioner received FAP benefits that she was not eligible for causing an overissuance.

The overissuance period begins the first month when benefit issuance exceeds the amount allowed by policy, or 12 months before the date the overissuance was referred to the recoupment specialist, whichever 12-month period is later. Department of Health and Human Services Bridges Administrative Manual (BAM) 705 (January 1, 2016), p 5.

Petitioner began receiving FAP benefits with [REDACTED] included in her benefit group effective November 1, 2015, and she was not eligible for the increase of her monthly allotment due to Department error. Since the overissuance of FAP benefits was caused by Department error, the Department is not entitled to recoup the full amount of the overissuance Petitioner received but is limited to the 12-month period.

Petitioner does not dispute that [REDACTED] should have been disqualified from FAP but argued that the overissuance was not due to any fault on her part since she reported her circumstances to the Department in a timely manner.


However, since Petitioner received an overissuance of FAP benefits, the Department is required to recoup those benefits as directed by policy even through it was a Department error that caused the overissuance.

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 due to Department error.

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]

DHHS Department Rep.

[REDACTED]

Petitioner

[REDACTED]