



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 7, 2018
MAHS Docket No.: 18-000147
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. A hearing scheduled for February 7, 2018, was adjourned. After due notice, telephone hearing was held on February 28, 2018, from [REDACTED] Michigan. The Petitioner was represented by her attorney [REDACTED]. Petitioner testified on her own behalf. The Department was represented by Assistant Attorney General [REDACTED] and Assistant Attorney General [REDACTED] Recoupment Specialist and [REDACTED] Hearing Facilitator, testified on behalf of the Department.

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 June 10, 2016, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a group of one. Exhibit A, pp 71-90.
2. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from September 1, 2016, through June 30, 2017. Exhibit A, pp 6-7.
3. Petitioner received Food Assistance Program (FAP) benefits from September 1, 2016, through June 30, 2017, based on a \$ [REDACTED] gross monthly income. Exhibit A, pp 60-67.

4. The maximum allotment of Food Assistance Program (FAP) benefits available to a group of one was \$ [REDACTED] from September 1, 2016, through June 30, 2017. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2015), p 1. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2016), p 1.
5. Petitioner was employed and received earned income from June 30, 2016, through June 29, 2017. Exhibit A, pp 32-59.
6. Petitioner's earned income, as reported to the Michigan Unemployment Insurance Agency, was available to the Department through its computer databases on August 9, 2016. Exhibit A, pp 68-69.
7. On October 2, 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. Exhibit A, pp 1-5.
8. On January 5, 2018, 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 (January 1, 2018), p 1.

On June 10, 2016, the Department received Petitioner's application for FAP benefits as a group of one. At the time she applied for benefits, Petitioner was not employed. Petitioner would become employed and received earned income from June 30, 2016, through June 29, 2017.

Petitioner testified that she provided the Department with verification of her employment and earned income. No evidence of the Department's receipt of this verification material was entered into the hearing record.

However, the Department routinely matches recipient employment data with the Unemployment Insurance Agency (UIA) through computer data exchange processes. Department of Health and Human Services Bridges Administrative Manual (BAM) 802 (April 1, 2017), p 1.

In this case, the Department made a computer data exchange inquiry and identified Petitioner as the recipient of earned income on August 9, 2016.

Due to Department error, Petitioner continued to receive the maximum allotment available to a group of one from September 1, 2016, through June 30, 2017. Regardless of whether Petitioner provided the Department with verification of her earned income, this earned income was discoverable to the Department. As a result of the Department's failure to redetermine Petitioner's eligibility for FAP benefits based on her current earned income, Petitioner received FAP benefits that she was not entitled to.

Petitioner received the maximum allotment of FAP benefits totaling \$ [REDACTED] from September 1, 2016, through June 30, 2017. If Respondent's actual earned income had been applied towards her eligibility for ongoing FAP benefits in each month that she was a FAP recipient, she would have received FAP benefits totaling \$ [REDACTED]. Therefore, Petitioner received a \$ [REDACTED] overissuance of FAP benefits.

The Department can compromise an overissuance if it is determined that a household's economic circumstances are such that the overissuance cannot be paid within three years. A request for policy exception must be made from the Recoupment Specialist to the Overpayment, Research and Verification Section office outlining the facts of the situation and the client's financial hardship. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 1, 2017), p 16.

In this case, no evidence that Petitioner has requested that the Department compromise the overissuance of FAP benefits. Further, BAM 725 does not entitle a FAP recipient to a reduction of an overissuance, or a hearing disputing the Department's refusal to reduce or eliminate an established debt.

Petitioner testified that she felt that she had been mistreated by her caseworker.

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

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 \$1,670 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

Counsel for Respondent

[REDACTED]

[REDACTED]

DHHS

[REDACTED]

DHHS Department Rep.

[REDACTED]

Counsel for Respondent

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]