



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: April 6, 2018
MAHS Docket No.: 18-002157
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 March 29, 2018, from [REDACTED] Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED].

ISSUE

Did the Department of Health and Human Services properly determine that Petitioner received an overissuance (OI) 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. Petitioner was a FAP recipient as a group of three totaling \$ [REDACTED] from [REDACTED], through [REDACTED]. Exhibit A, p 10.
2. Petitioner reported to the Department that her daughter was living in her household. Exhibit A, pp 26-29.
3. Petitioner's daughter was a member of a food assistance group in the State of Indiana from [REDACTED], through [REDACTED]. Exhibit A, pp 24-25.

4. On February 1, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$ [REDACTED] OI of FAP benefits. Exhibit A, pp 3-7.
5. On [REDACTED], the Department received Petitioner's request for a hearing protesting recoupment of an OI of 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.

A person cannot be a member of more than one FAP Certified Group in any month. A person cannot receive FAP in more than one state for any month. Department of Health and Human Services Bridges Eligibility Manual (BEM) 222 (October 1, 2016), p 3.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the OI. Department of Human Services Bridges Administrative Manual (BAM) 700 (October 1, 2015), p 1.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same FAP benefit group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 1.

To be eligible for FAP benefits, a person must be a Michigan resident. A person is considered a resident while living in Michigan for any purpose other than a vacation. Department of Health and Human Services Bridges Eligibility Manual (BEM) 220 (January 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 persons in the home and the receipt of concurre3nt or

duplicate benefits from another state. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2016), pp 1-20.

Petitioner was an ongoing FAP recipient as a group of three after having reported that her daughter was a member of her household. As a member of the household, Petitioner's daughter is a mandatory member of the benefit group.

The Department discovered that Petitioner's daughter was a member of a family member's food assistance benefit group, living in Indiana. Petitioner's daughter was a member of the Indiana food assistance benefit group from [REDACTED], through [REDACTED], while Petitioner was receiving FAP benefits based on her report that the daughter lives in Michigan.

Petitioner was not eligible for FAP benefits based on her daughter's presence in her home while she was also receiving concurrent or duplicate food assistance from another state. Petitioner was also not eligible for FAP benefits based on her daughter's presence in her home while the daughter was not living in Michigan.

The hearing record supports a finding that at some point Petitioner's daughter relocated to Indiana. Regardless of whether Petitioner was aware that an application for food assistance had been made including the daughter as part of the Indiana benefit group, Petitioner still had a duty to report changes to her circumstances. Further, even if the daughter's absence from the Michigan FAP group was intended to be temporary, she was not eligible for Michigan FAP benefits while receiving concurrent or duplicate food assistance from another state.

Petitioner received FAP benefits as a group of three including Petitioner's daughter totaling \$ [REDACTED] from [REDACTED], through [REDACTED]. If the Department was aware that the daughter was receiving food assistance as part of an Indiana household, the Department would have reduced Petitioner's FAP group to two people, and she would have been eligible for FAP benefits totaling \$ [REDACTED] from [REDACTED], through [REDACTED]. Therefore, Petitioner received a \$ [REDACTED] OI of FAP benefits.

Petitioner argues that her daughter was an eligible member of her FAP benefit group as a Michigan resident.

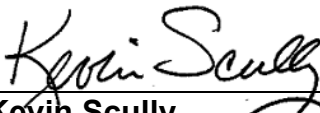
However, the record evidence supports a finding that Petitioner failed to make timely reports to the Department concerning her daughter's circumstances. Petitioner's daughter was not eligible for Michigan FAP benefits while receiving concurrent or duplicate benefits in Indiana. If the daughter had been reported as being out of the household, even temporarily, the Department would have been able to address the concurrent or duplicate benefits in a timely manner. Instead, Petitioner continued to receive FAP benefits as a group of three and she was not eligible to continue to receive those 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 an OI of FAP benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/bb



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]

DHHS Department Rep.

[REDACTED]

Petitioner

[REDACTED]