



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: May 7, 2018  
MAHS Docket No.: 18-003147  
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, a telephone hearing was held on May 2, 2018, from Lansing, Michigan. Petitioner represented himself. The Department was represented by [REDACTED], Overpayment Specialist.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determined that Petitioner received an overissuance of Food Assistance Program (FAP) benefits?

**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 a Redetermination (DHS-1010) form received by the Department on [REDACTED], Petitioner reported to the Department that he was not employed. Exhibit A, pp 39-44.
2. Petitioner was approved for Food Assistance Program (FAP) benefits as a group of two as of [REDACTED], receiving a \$ [REDACTED] monthly allotment of benefits based on a \$ [REDACTED] gross monthly income. Exhibit A, pp 33-38.
3. Petitioner received Food Assistance Program (FAP) benefits totaling \$ [REDACTED] from [REDACTED], through [REDACTED]. Exhibit A, p 7.

4. Respondent started employment on [REDACTED], and received earned income from employment from [REDACTED], through [REDACTED]. Exhibit A, pp 27-32.
5. If Respondent's earned income had been applied towards his eligibility for Food Assistance Program (FAP) benefits then he would have been eligible for benefits totaling \$ [REDACTED] from [REDACTED], through [REDACTED]. Exhibit A, pp 8-24.
6. On [REDACTED], the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing him that he had received a \$ [REDACTED] overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 1-5.
7. On [REDACTED], the Department received Petitioner's request for a hearing protesting the recoupment of 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.

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 changes in employment status and increases in earned income. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), pp 1-20.

Petitioner was an ongoing FAP recipient on [REDACTED], then the Department received his Redetermination (DHS-1010) when he reported to the Department that he was not receiving any income. The Department approved Petitioner for ongoing FAP benefits as a group of two effective [REDACTED], receiving a \$ [REDACTED] monthly allotment of FAP benefits based on a \$ [REDACTED] gross monthly income.

Petitioner started new employment on or around [REDACTED], and received earned income from [REDACTED], through [REDACTED]. Petitioner's eligibility for ongoing FAP benefits was not redetermined based on this change in circumstance. As a result, Petitioner continued to receive FAP benefits based on no income when he was actually receiving earned income from employment.

Petitioner testified that he did report his employment and earned income to the Department. Petitioner testified that he was working as a truck driver and described how he reported his earned income while away from home working.

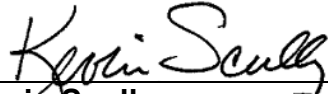
However, Petitioner was unable to present any evidence supporting his claim that he reported his earned income to the Department. It is not disputed that the FAP benefits that Petitioner received were not based on the income he was receiving. Even if the failure to budget the earned income was due to Department error, Petitioner received FAP benefits that he was not eligible for and the Department is required to seek recoupment for those benefits that were issued in error. In the absence of any evidence that Petitioner reported his earned income to the Department, the Department's determination that it was client error that the income was not reported is supported by the hearing record.

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 FAP benefits that must be recouped.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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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 Department Rep.**

[REDACTED]

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]