



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 20, 2018
MAHS Docket No.: 18-004727
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 June 14, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Tracy Upshaw, Recoupment Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine 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 April 16, 2015, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 35-48.
2. On Petitioner's April 16, 2015, application for assistance, she reported that she was employed and receiving child support payments. Exhibit A, pp 43-44.
3. On April 27, 2015, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits based on earned income from employment in the gross monthly amount of \$573, but \$0 unearned income. Exhibit A, pp 49-50.

4. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,315 from May 1, 2015, through January 31, 2016. Exhibit A, pp 8-10.
5. Petitioner received income from child support payments from May 1, 2015, through January 31, 2016. Exhibit A, pp 33-34.
6. Petitioner received income from employment from May 1, 2015, through January 31, 2016.
7. Petitioner would have been eligible for Food Assistance Program (FAP) benefits totaling \$867 from May 1, 2015, through January 1, 2016, if her child support income had been applied towards her eligibility for assistance. Exhibit A, pp 13-32.
8. On April 24, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$1,448 overissuance of Food Assistance Program (FAP) benefits due to Department error. Exhibit A, pp 2-6.
9. On May 3, 2018, 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.

On April 16, 2015, the Department received Petitioner's application for FAP benefits where she properly reported her circumstances including the earned income from employment and child support payments she was receiving. Due to Department error, Petitioner's child support payments, which are considered countable unearned income under Department policy, were not applied towards her eligibility for FAP benefits. On

April 27, 2015, the Department notified Petitioner that she was approved for FAP benefits based on \$0 unearned income received.

Petitioner received FAP benefits totaling \$2,315 from May 1, 2015, through January 31, 2016. If Petitioner's child support income had been properly applied towards her eligibility for FAP benefits during that same period, then she would have been eligible for FAP benefits totaling \$867. Therefore, Petitioner received a \$1,448 overissuance of FAP benefits due to the Department's failure to properly apply her child support towards her eligibility for FAP benefits. Since Petitioner received more benefits than she was eligible for, Department policy requires that these benefits be repaid even though the overissuance was not cause by Petitioner.

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 \$1,448 overissuance of Food Assistance Program (FAP) benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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) 763-0155; 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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI 49507

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
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Kent County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]