



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 13, 2018  
MAHS Docket No.: 17-017137  
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 June 6, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Swanzetta Wilson.

**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. Petitioner was an ongoing Food Assistance Program (FAP) recipient on June 8, 2015, when the Department received her Redetermination (DHS-1010) form where she reported that her employment had ended. Exhibit A, pp 70-75.
2. On October 13, 2015, the Department received Petitioner's Redetermination (DHS-1010) form where she reported that no one in her household was employed. Exhibit A, pp 76-81.
3. Petitioner failed to report to the Department that she had started employment on July 28, 2015, and receive earned income from August 8, 2015, through November 5, 2016. Exhibit A, pp 52-54.

4. Petitioner failed to report to the Department that she had started other employment on April 23, 2016, and received earned income from May 6, 2016, through June 2, 2017. Exhibit A, pp 55-58.
5. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,555 from October 1, 2015, through February 1, 2016. Exhibit A, p 20.
6. If Petitioner had reported her August 8, 2015, paycheck to the Department in a timely manner, the Department would have redetermined her eligibility for ongoing Food Assistance Program (FAP) benefits by the first benefit period after September 9, 2015.
7. Petitioner would have been eligible for Food Assistance Program (FAP) benefits totaling \$1,193 from October 1, 2015, through February 1, 2016, if she had reported her earned income in a timely manner. Exhibit A, pp 23-33.
8. On November 2, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$1,362 overissuance of Food Assistance Program (FAP) benefits during the period of October 1, 2015, through February 29, 2016, due to client error. Exhibit A, pp 5-9.
9. On February 10, 2016, Petitioner reported to the Department that she had been employed since July 28, 2015. Exhibit A, pp 82-84.
10. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,044 from March 1, 2016, through June 1, 2016. Exhibit A, p 21.
11. On June 1, 2016, the Department received Petitioner's Redetermination form where she reported that she had been employed since July 28, 2015. Exhibit A, pp 85-92.
12. Due to Department error, the earned income Petitioner reported on February 10, 2016, was not applied to the Food Assistance Program (FAP) benefits she received from March 1, 2016, through June 1, 2016. If the earned income Petitioner received during that period had been applied towards her eligibility for FAP benefit she would have been eligible for benefits totaling \$1,038. Exhibit A, pp 34-42.
13. On November 2, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$1,006 overissuance of Food Assistance Program (FAP) benefits during the period of March 1, 2016, through June 30, 2016, due to Department error. Exhibit A, pp 10-14.
14. On August 4, 2016, the Department notified Petitioner that she was eligible for a \$83 monthly allotment of Food Assistance Program (FAP) benefits as of August 1, 2016, as a group of three, based on a household income in the gross monthly amount of \$1,967. Exhibit A, pp 95-98.

15. On December 7, 2016, the Department received Petitioner's Semi-Annual Contact Report where she reported that her household income had not increased more than \$100 from the \$1,967 that had been used to determine her eligibility for benefits. Exhibit A, pp 93-94.
16. Petitioner received child support payments in the monthly amounts of \$784 in December of 2016, \$751 in January of 2017, \$556 in February of 2017, and \$566 in March of 2017. Exhibit A, pp 61-66.
17. On December 15, 2016, the Department notified Petitioner that she was eligible for a \$84 monthly allotment of Food Assistance Program (FAP) benefits as a group of three, based on a household income in the gross monthly amount of \$1,967. Exhibit A, pp 100-104.
18. Petitioner received Food Assistance Program (FAP) benefits totaling \$336 from December 1, 2016, through March 1, 2017. Exhibit A, p 22.
19. If Respondent had reported when her total gross monthly household income had exceeded the gross monthly income limit of \$2,184, then the Department would have closed her Food Assistance Program (FAP) benefits. Exhibit A, pp 43-51.
20. On November 2, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$336 overissuance of Food Assistance Program (FAP) benefits during the period of December 1, 2016, through March 31, 2017. Exhibit A, pp 15-19.
21. On November 13, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

### **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 (October 1, 2016), pp 1-20.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (January 1, 2018), p 12. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (January 1, 2018), p 7. A pended negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

Petitioner was an ongoing FAP recipient in July of 2015, receiving the maximum allotment of FAP benefits for a group of three, when she failed to report starting employment and that she started receiving earned income on August 8, 2015. If Respondent had reported receiving her first paycheck on July 28, 2015, then the Department would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after September 9, 2015. Petitioner received FAP benefits totaling \$2,555 from October 1, 2015, through February 1, 2016. If Respondent had reported her earned income to the Department in a timely manner, then she would have been eligible for \$1,193 of FAP benefits during that same period. Therefore, Petitioner received a \$1,362 overissuance of FAP benefits due to her failure to report her earned income in a timely manner.

On February 10, 2016, Petitioner reported to the Department that she had been employed since July 28, 2015. Due to Department error, this information was not applied towards her eligibility for FAP benefits. Petitioner continued to receive the maximum allotment of FAP benefits for a group of three from March 1, 2016, through June 1, 2016, receiving benefits totaling \$2,044. If the Department had properly applied the income she had reported, then she would have been eligible for FAP benefits totaling \$1,038 during that same period. Therefore, Petitioner received a \$1,006 overissuance of FAP benefits from March 1, 2016, through June 30, 2016, due to Department error.

The gross monthly income limit for a group of three to receive Food Assistance Program (FAP) benefits in December of 2016, was \$2,184. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2016), p 1.

On August 4, 2016, the Department notified Petitioner that she was approved for a \$83 monthly allotment of FAP benefits as a group of three based on a household income of \$1,967. The record evidence supports a finding that Petitioner's gross monthly income exceeded the gross monthly income limit in each month from October 1, 2016, through March 31, 2017. If Respondent had reported a significant increase in household income received in October of 2016, the Department would have closed Petitioner's FAP benefits case by December 1, 2016.

On December 7, 2016, the Department received Petitioner's Semi-Annual Contact Report where she reported that her household income had not increased more than \$100 from the \$1,967 that had been used to determine her eligibility for benefits. Petitioner received child support payments, which are considered countable income, in the monthly amounts of \$784 in December of 2016, \$751 in January of 2017, \$556 in February of 2017, and \$566 in March of 2017. Petitioner's earned income from employment combined with her child support income not only exceeded \$1,967, but her monthly household income exceeded the gross monthly income limit. If Petitioner had reported that her household income had exceeded the gross monthly income limit, then the Department would have closed her FAP benefits. Petitioner received FAP benefits as a group of three totaling \$336 from December 1, 2016, through March 1, 2017, but was not eligible for any of those benefits. Therefore, Petitioner received a \$336 overissuance of FAP benefits due to her failure to report that her household income had increased by more than \$100 from the amount being used to determine her eligibility for FAP benefits.


Petitioner argued that she had always reported her circumstances to the Department in a timely manner. Petitioner argued that her caseworker did not always receive the documents she submitted because the Department frequently changed the person handling her case without notice. Petitioner failed to offer any evidence establishing any information reported to the Department that was not already documented by the Department's exhibits. Petitioner failed to offer an explanation for the documents she submitted not listing income that she was actually receiving, or why she incorrectly reported that her household income had not increased by more than \$100.

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 \$1,362 overissuance of Food Assistance Program (FAP) benefits due to client error during the period of October 1, 2015, through February 29, 2016, and a \$1,006 overissuance of Food Assistance Program (FAP) benefits due to Department error during the period of March 1, 2016, through June 30, 2016, and a \$366 overissuance of Food Assistance Program (FAP) benefits due to client error from December 1, 2016, through March 31, 2017.

**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) 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**

Jeanette Cowens  
2524 Clark Street  
Detroit, MI 48209

Wayne County (District 41), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**DHHS Department Rep.**

MDHHS-Recoupment  
235 S Grand Ave  
Suite 1011  
Lansing, MI 48909

**Petitioner**

