



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 26, 2018  
MAHS Docket No.: 17-017148  
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 20, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Rebecca Webber, Overpayment Specialist.

**ISSUE**

Did the Department of Health and Human Services (Department) establish 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 November 25, 2015, the Department received Petitioner's Redetermination (DHS-1010) where she reported that she was not receiving any income. Exhibit 2.
2. On January 19, 2016, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a group of one based on a \$200 gross monthly income. Exhibit 5.
3. On June 20, 2016, the Department received Petitioner's application for cash assistance where she reported that she was not receiving any income. Exhibit 3.

4. On July 7, 2016, the Department notified Petitioner that she was eligible for a \$200 monthly grant of cash assistance, which was her only reported source of income, and a \$194 monthly allotment of Food Assistance Program (FAP) benefits. Exhibit 6.
5. On June 21, 2017, the Department received Petitioner's Redetermination (DHS-1010) where she reported that she was receiving social security benefits and another household member was receiving earned income from employment. Exhibit 4.
6. On July 17, 2017, the Department notified Petitioner that she was eligible for a \$16 monthly allotment of Food Assistance Program (FAP) benefits as a group of one based on a \$1,027 gross monthly income. Exhibit 7.
7. Petitioner was receiving a monthly Retirement, Survivors, and Disability Insurance (RSDI) payment as of December 21, 2016. Exhibit 8.
8. Petitioner received Food Assistance Program (FAP) benefits totaling \$1,164 from February 1, 2017, through July 31, 2017. Exhibit 10.
9. If Petitioner's social security benefits had applied towards her eligibility for Food Assistance Program (FAP) benefits from February 1, 2017, through July 31, 2017, then she would have been eligible for benefits totaling \$96 during that period. Exhibit 11.
10. On August 30, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$1,068 overissuance of Food Assistance Program (FAP) benefits. Exhibit 12.
11. On September 8, 2017, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit 1.

### **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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

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 starting a source of unearned 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 as a group of one on December 21, 2017, when she began receiving RSDI benefits in the gross monthly amount of \$1,027. Petitioner failed to report that she was starting to receive a source of unearned income but continued to receive the maximum allotment of FAP benefits for a group of one. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2016), pp 1-50. If Petitioner had reported her RSDI benefits to the Department in a timely manner, the Department would have redetermined her eligibility for FAP benefits no later than the first benefit period after January 2, 2017. Petitioner continued to receive \$194 of FAP benefits per month until July 31, 2017, after her Redetermination interview where the Department first discovered the RSDI income and the Department reduced her FAP benefits to \$16 per month. If Petitioner had reported her RSDI benefits to the Department in a timely manner then she would have received

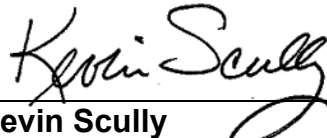
FAP benefits totaling \$96 from February 1, 2017, through July 31, 2017. Therefore, Petitioner received a \$1,068 overissuance of FAP benefits.

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 a \$1,068 overissuance of Food Assistance Program (FAP) benefits from February 1, 2017, through July 31, 2017, due to client error.

**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**

Ashur Hillman  
220 Fort St.  
Port Huron, MI 48060

**DHHS Department Rep.**

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

St. Clair County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]