



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 21, 2018
MAHS Docket No.: 18-007470
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 August 16, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Walita Randle, Recoupment Specialist.

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. On [REDACTED] 2017, the Department received Petitioner's application for assistance where he acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits. Exhibit A, pp 37-53.
2. Petitioner reported that he was not employed on his [REDACTED] 2017, application for assistance. Exhibit A, p 48.
3. Petitioner received Food Assistance Program (FAP) benefits totaling \$1,947 from June 1, 2017, through August 31, 2017. Exhibit A, p 8.
4. Petitioner received Food Assistance Program (FAP) benefits totaling \$4,081 from September 1, 2017, through March 31, 2018. Exhibit A, p 9.

5. On September 11, 2017, the Department received Petitioner's completed Redetermination (DHS-1010) form. Exhibit A, pp 125-133.
6. On September 11, 2017, Petitioner reported to the Department that someone in his household was receiving income. Exhibit A, p 128.
7. Petitioner reported to the Department on his September 11, 2017, Redetermination form that two of his children had moved out of the household. Exhibit A, p 129.
8. On November 20, 2017, the Department received Petitioner's completed Redetermination (DHS-1010). Exhibit A, pp 117-124.
9. Petitioner reported to the Department that he was receiving an income of \$784 per month and \$171.40 per week. Exhibit A, p 122.
10. On April 17, 2018, the Department received a memorandum that Petitioner has been employed since March 29, 2017. Exhibit A, p 20.
11. Petitioner received earned income from employment from April 8, 2017, through August 18, 2017. Exhibit A, pp 22-33.
12. Petitioner received earned income from employment from August 25, 2017, through May 11, 2018. Exhibit A, pp 84-116.
13. If Respondent's earned income from employment had been applied towards his eligibility for Food Assistance Program (FAP) benefits from June 1, 2017, through August 31, 2017, he would have been eligible for \$1,360 of benefits during that period. Exhibit A, pp 10-19.
14. Petitioner received Food Assistance Program (FAP) benefits based on a gross monthly income of \$92 for June of 2017, \$121 for July of 2017, and \$110 for August of 2017. Exhibit A, pp 34-36.
15. Petitioner received Food Assistance Program (FAP) benefits based on a gross monthly income of \$210 for September of 2017, \$307 for October of 2017, \$122 for November of 2017, \$125 for December of 2017, \$18 for January of 2018, \$18 for February of 2018, and \$18 for March of 2018. Exhibit A, pp 77-83.
16. From April 1, 2017, through September 30, 2017, the maximum amount of Food Assistance Program (FAP) benefits a group of four could receive was \$649. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2016), p 1.
17. From October 1, 2017, through March 31, 2018, the maximum amount of Food Assistance Program (FAP) benefits a group of four could receive was \$640, and the maximum amount a group of three was \$504. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2017), pp 1.
18. On April 18, 2018, an Overissuance Referral was filed triggering an investigation

into Petitioner's eligibility for Food Assistance Program (FAP) benefits from March 29, 2017, through present. Exhibit A, p 54.

19. On June 26, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing him that the Department would recoup a \$587 overissuance of Food Assistance Program (FAP) benefits for the period of June 1, 2017, through August 31, 2017. Exhibit A, pp 2-6.
20. On June 26, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing him that the Department would recoup a \$1,473 overissuance of Food Assistance Program (FAP) benefits for the period of September 1, 2017, through March 31, 2018. Exhibit A, pp 55-59.
21. On July 9, 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.

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.

On [REDACTED] 2017, the Department received Petitioner's application for assistance. Petitioner reported to the Department that he was not employed, and no housing expenses are listed on the application form. Petitioner was receiving a \$649 monthly allotment of FAP benefits, which was the maximum amount of benefits he could receive. These benefits during this period were based on a total household income of \$121 or less. When determining Petitioner's eligibility for FAP benefits, his total gross monthly income would have been reduced by a \$162 standard deduction, leaving him with an adjusted gross income of \$0. This explains why Petitioner was receiving the maximum allotment of FAP benefits.

However, Petitioner started employment on or around March 29, 2017. Petitioner received earned income from employment from April 8, 2017, through August 18, 2017, but none of this income was applied towards his eligibility for FAP benefits. If Respondent had reported his April 8, 2017, paycheck within 10 days as required by BAM 105, the Department would have applied this income towards his eligibility for benefits within 10 days, which would have resulted in a reduction of FAP benefits that would have been delayed until the first benefit period at least 12 days after the change. The Department would have reduced Petitioner's FAP benefits by June 1, 2017. If Petitioner's earned income had been applied towards his eligibility for FAP benefits, then he would have remained eligible for FAP benefits totaling \$1,360 from June 1, 2017, through August 31, 2017.

Petitioner received FAP benefits that he was not eligible for from June 1, 2017, through August 31, 2017. Petitioner testified that he reported his employment to the Department and provided verification of the earned income he expected to receive. Petitioner failed to present any evidence that he reported his employment to the Department in a timely manner. Therefore, the Department has established that Petitioner received a \$587 overissuance of FAP benefits due to client error for the period of June 1, 2017, through August 31, 2017.

On September 11, 2017, Petitioner reported to the Department on a Redetermination (DHS-1010) form that someone in his household had an income. Due to Department error, this income was not properly verified in accordance with policy.

Petitioner received earned income from employment from August 25, 2017, through May 11, 2018, and none of this income was applied towards his eligibility for FAP benefits. Petitioner received FAP benefits totaling \$4,081, which was based on a household income that did not exceed the standard deduction in several of those months.

Petitioner clearly received FAP benefits that he was not eligible because his earned income was not applied towards his eligibility.

However, when Petitioner reported that he was receiving income on September 11, 2017, the Department should have obtained verification of that income by requesting that he provide copies of his paycheck stubs or by networking with income reported to the Michigan Unemployment Insurance Agency. If this earned income from employment

had been verified by the Department, his eligibility for FAP benefits would have included a 20% earned income deduction. This 20% earned income applies except when determining an overissuance of FAP benefits due to a failure to report earned income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 3. Petitioner reported receiving income on September 11, 2017, and although it was not verified due to Department error, he was entitled to the 20% earned income deduction.

Petitioner received FAP benefits totaling \$4,081 with his earned income not included in the eligibility determination. If Petitioner's earned income had been applied, including the 20% earned income deduction, Petitioner would have been eligible for FAP benefits totaling \$3,153. The Department does not dispute that this overissuance was caused by Department error, but apparently determined the amount of the overissuance as if it was Petitioner's error.

Petitioner testified that he reported his employment to the Department on multiple occasions and provided the Department with verification of his earned income. Petitioner failed to provide evidence that he had reported his employment before September 11, 2017. It is clear that Petitioner was receiving FAP benefits based on either minimal income or no earned income, which was not correct. Since the earned income had not been properly applied towards FAP eligibility, Petitioner received an overissuance of FAP benefits and this must be recouped by the Department even if Petitioner is not at fault. Since the Department is not disputing that the overissuance after September of 2017, was due to Department error, he should be entitled to the earned income deduction starting in September.

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 \$587 overissuance of Food Assistance Program (FAP) benefits due to client error from June 1, 2017, through August 31, 2017, but did not act in accordance with Department policy when it determined the amount of the overissuance received from September 1, 2017, through March 31, 2018.

DECISION AND ORDER

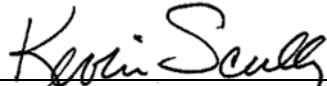
Accordingly, the Department's decision is AFFIRMED IN PART with respect to the overissuance of Food Assistance Program (FAP) benefits received from June 1, 2017, through August 31, 2017, and REVERSED IN PART with respect to the overissuance received from September 1, 2017, through March 31, 2018.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

The Department is ORDERED to initiate collection procedures for a \$587 overissuance for the period of June 1, 2017, through August 31, 2017, in accordance with Department policy.

The Department is ORDERED reduce the overissuance amount to \$3,153 for the period of September 1, 2017, through March 31, 2018, and initiate collection procedures in accordance with Department policy.

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 Department Rep.

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

DHHS

Renee Olian
322 Stockbridge
Kalamazoo, MI 49001

Kalamazoo County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Policy-Recoupment via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]