



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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

Date Mailed: September 25, 2018  
MAHS Docket No.: 18-008579  
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 September 20, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Rhonda Holland, 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 February 1, 2017, the Department received a Change Report (DHS-2240) where Petitioner reported that her husband was off work and receiving long term disability benefits. Exhibit A, pp 3-4.
2. On February 1, 2017, the Department received verification of the long-term disability benefits her husband would be receiving. Exhibit A, pp 7-11.
3. On February 21, 2017, the Department received Petitioner's Semi-Annual Contact Report (DHS-1046) where she reported that her household's monthly gross earned income had not changed by more than \$100. Exhibit A, pp 5-6.

4. On November 30, 2017, Petitioner's case was referred for further evaluation of a possible overissuance of Food Assistance Program (FAP) benefits. Exhibit A, p 2.
5. Petitioner received Food Assistance Program (FAP) benefits as a group of four from March 1, 2017, through September 30, 2017. Exhibit A, p 12.
6. On August 1, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that the Department would recoup a \$1,176 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 36-42.
7. On August 16, 2018, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 42.

### **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.

Petitioner was an ongoing FAP recipient on February 1, 2017, when she reported that her husband, a mandatory group member, was no longer employed but would be receiving long-term disability payments that were substantially similar to the income previously received.

However, due to Department error, this information was not corrected processed and the group's eligibility for FAP benefits continued as if they were continuing to receive earned income from employment.

Petitioner received FAP benefits totaling \$1,176 from March 1, 2017, through September 30, 2017. Eligibility for these benefits were based on the assumption that the husband was employed while he was actually receiving long-term disability benefits. The long-term disability payments were less than the wages that were previously

received but the long-term disability payments fit the Department's definition of unearned income as opposed to earned income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2017), p 33. Earned income is reduced by a 20% earned income deduction for the purposes of eligibility for FAP benefits while this deduction does not apply towards unearned income. See BEM 556.

Petitioner receives monthly long-term disability payments in the gross monthly amount of \$[REDACTED] which are not subject to the earned income deduction. Petitioner's adjusted gross income of \$[REDACTED] was determined by reducing her total income by the \$162 standard deduction.

Petitioner was entitled to a \$124 excess shelter deduction, which was determined by reducing the sum of the group's monthly housing expenses in the amount of \$766 and the \$526 standard heat and utility deduction by 50% of the group's adjusted gross income.

The group's net income of \$[REDACTED] was determined by reducing the adjusted gross income by the excess shelter deduction. A group of four receiving a net income of \$[REDACTED] is not eligible for any FAP benefits because their monthly net income exceeds the allowable net income limit. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2106), p 1.


On February 21, 2017, Petitioner reported to the Department that her income had not changed by more than \$100 from the amount being used to determine her eligibility for FAP benefits, which was \$[REDACTED]. Petitioner's income did change by more than \$100 from that amount, but it had actually decreased from that amount. More importantly than the amount of the change was that the character of the income had changed from earned income to unearned income. This fact was reported to the Department on February 1, 2017. Therefore, the evidence does not support a finding that Petitioner fraudulently failed to report her changed circumstances but does support a finding that Petitioner received an overissuance of FAP benefits due to Department error. The Department is required to recoup that overissuance of FAP benefits by BAM 700.

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 \$1,176 overissuance of Food Assistance Program (FAP) benefits due to Department error 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) 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**

Deborah Little  
5131 Grand River Ave.  
Detroit, MI 48208

**DHHS Department Rep.**

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

Wayne County (District 49), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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