



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: October 30, 2018
MAHS Docket No.: 18-009836
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 October 24, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Patrick Lynaugh.

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 August 31, 2015, the Department received Petitioner's Redetermination (DHS-1010) where she reported working 80 hours per bi-weekly pay period at a rate of \$ [REDACTED] per hour, and that another household member was working 3-7 hours per week at a rate of \$ [REDACTED] per hour. Exhibit A, pp 32-37.
2. On October 19, 2015, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a group of three based on earned income in the gross monthly amount of \$ [REDACTED] and unearned income in the gross monthly amount of \$ [REDACTED]. Exhibit A, pp 27-31.
3. Petitioner was an ongoing Food Assistance Program (FAP) recipient on February 29, 2016, when the Department received her Semi-Annual Contact

Report (DHS-1046) where she reported to the Department that her household income had not increased by more than \$100 over the \$[REDACTED] that was being applied towards her eligibility for benefits. Exhibit A, pp 25-26.

4. Respondent failed to report that she was working overtime from January of 2016, through June of 2016. Exhibit A, pp 19-23.
5. Petitioner received Food Assistance Program (FAP) benefits totaling \$958 from February 1, 2016, through June 30, 2016. Exhibit A, p 7.
6. On August 28, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$922 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 1-5.
7. On September 10, 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 within 10 days of receiving the first payment reflecting the change. Changes that must be reported include increases in earned income. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2016), pp 1-20.

On August 31, 2015, the Department received a Redetermination (DHS-1010) where Petitioner reported that she was working 80 hours per bi-weekly pay period at a rate of \$[REDACTED] per hour, and that another household member was working 3-7 hours per week at a rate of \$[REDACTED] per hour. This is consistent with a gross monthly income of \$[REDACTED] from earned income. On October 19, 2015, the Department notified Petitioner that she

was eligible for FAP benefits as a group of three based on a household income in the gross monthly amount of \$1,822.

On February 20, 2016, the Department' received Petitioner's Semi-Annual Contact Report where she reported that her household income had not increased by more than \$100 from the \$ [REDACTED] that was being applied towards her eligibility for FAP benefits.

In 2016, the gross monthly income limit for a group of three was \$2,177. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2015), p 1. Petitioner failed to report to the Department when her earned income increased to more than the gross monthly limit for a group of three, which was caused by the overtime she was working. Petitioner's earned income by itself exceed the reporting limit in each month from January through June.

Petitioner received Food Assistance Program (FAP) benefits totaling \$958 from February 1, 2016, through June 30, 2016. If Respondent had reported her earned income to the Department in a timely manner, then the household would have been eligible for only \$36 of those benefits.

Petitioner testified that she had called her caseworker and reported that her earned income had increased. No evidence was presented on the record that Petitioner notified the Department that her earned income had increased or that he had provided the Department with verification of her earned income.

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 an overissuance of Food Assistance Program (FAP) benefits due to her failure to report an increase of household income in a timely manner.

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 Department Rep.

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

DHHS

Sarah Johnson
2229 Summit Park Dr.
Petoskey, MI 49720

Charlevoix County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]