



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: November 9, 2018
MAHS Docket No.: 18-010312
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 November 1, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services was represented by Bernice Ray.

ISSUE

Did the Department of Health and Human Services (Department) properly determined 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 Food Assistance Program (FAP) benefits where she reported that no one in the household was employed or receiving child support. Exhibit A, pp 2-37.
2. On October 30, 2017, Petitioner reported to the Department that she had started employment on or around September 25, 2017. Exhibit A, p 71.
3. Petitioner received a \$352 monthly allotment of Food Assistance Program (FAP) benefits from December 1, 2017, through August 31, 2018. Exhibit A, pp 38-39.
4. Respondent was employed and received earned income from October 6, 2017, through June 1, 2018. Exhibit A, pp 62-68.

5. Respondent received child support income from December of 2017, through August of 2018. Exhibit A, pp 69-70.
6. On September 18, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$2,666 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 73-77.
7. On September 28, 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.

On [REDACTED], 2017, the Department received Petitioner's application for FAP benefits as a group of two where she reported that no one in her household was receiving any income. Respondent also reported to the Department that she had no obligation to pay shelter expenses.

On October 30, 2017, Petitioner reported to the Department that she had started new employment. Due to Department error, this earned income was not applied towards Petitioner's eligibility for ongoing FAP benefits. Further, Petitioner received child support income that was also not applied towards her eligibility for ongoing FAP benefits. If the Department had properly processed Petitioner earned income, it would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after November 7, 2017.

The maximum allotment of FAP benefits available for a group of two in December of 2017, was \$352, which corresponds to a group of two receiving no income. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2017), p 1. Petitioner received a \$352 monthly allotment of FAP benefits from December 1, 2017, through August 31, 2018, which did not take in account the earned income and

child support that was received during that period. Further, Petitioner had been given credit for being responsible for utility expenses at her home, and in August of 2018, the incorrect standard deduction was applied towards the monthly allotment. Department of Health and Human Services Reference Table Manual (RFT) 255 (August 1, 2018), p 1. If the Department had properly accounted for Petitioner's income and had applied her actual shelter expenses, Respondent would have been eligible for only \$502 of those FAP benefits.

Petitioner testified that she had moved in with a family member that she had fully reported her circumstances to the Department in a timely manner.

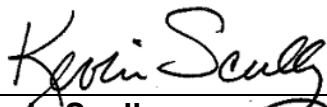
Although there is no evidence that Petitioner failed to report her circumstances to the Department in a timely manner, the evidence supports a finding that the Department failed to properly apply her circumstances towards her eligibility for FAP benefits, which resulted in her receiving benefits that she was not eligible for. Department policy requires that the Department recoup those benefits that she was not eligible for.

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 \$2,666 overissuance from December 1, 2017, through August 31, 2018, that must be recouped.

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

Cindy Tomczak
401 Eighth Street
PO Box 1407
Benton Harbor, MI 49023

DHHS Department Rep.

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

Berrien County (District 22), DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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