



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 19, 2019
MAHS Docket No.: 19-001948
Agency No.: ██████████
Petitioner: ██████████

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, an in-person hearing was held on April 11, 2019, from Lansing, Michigan. Petitioner was represented by her authorized hearing representative, ██████████, and Petitioner testified on her own behalf. The Department was represented by Dawn McKay.

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 ██████ ██████ 2016, the Department received Petitioner's Redetermination (DHS-1010) and she did not report any medical expenses. Exhibit A, pp 4-9.
2. On ██████ ██████ 2017, the Department received Petitioner's Mid-Certification Contact Notice (DHS-2240-A) where she reported no changes to her circumstances. Exhibit A, pp 10-11.
3. On April 4, 2018, the Department received Petitioner's Redetermination (DHS-1010) where she reported no medical expenses. Exhibit A, pp 13-19.

4. Petitioner received Food Assistance Program (FAP) benefits totaling \$1,834 from February 1, 2018, through January 31, 2019. Exhibit A, pp 20-21.
5. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) benefits, and her Medicare Part B premiums are paid by the Department. Exhibit A, pp 22-24.
6. On February 12, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$1,509 overissuance of Food Assistance Program (FAP) benefits due to the Department's error. Exhibit A, pp 50-54.
7. On February 25, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

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 (October 1, 2018), p 1.

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. An FAP group is not required to but may voluntarily report changes during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8 – 9.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

The food assistance budget procedure is outlined in Department of Health and Human Services Bridges Eligibility Manual (BEM) 556.

Petitioner was an ongoing FAP recipient from February 1, 2018, through January 31, 2019. In January of 2018, Petitioner received RSDI in the gross monthly amount of \$945, and her adjusted gross income of \$785 was determined by reducing her totaling income by the \$160 standard deduction.

Petitioner was entitled to a \$242 shelter deduction, which was determined by adding her annual property tax obligation divided by 12 months to the \$537 standard heat and utility deduction, then subtracting 50% of her adjusted gross income.

Petitioner's net income of \$542 was determined by reducing her adjusted gross income by the shelter deduction. A group of one with a net income of \$542 was entitled to a \$29 monthly allotment of FAP benefits in February of 2018.

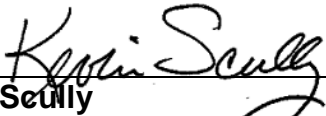
However, due to Department error, Petitioner was given an additional deduction for medical expenses that she did not actually incur. Petitioner received this medical deduction in each month from February 1, 2018, through January 31, 2019. Petitioner's income and expenses did not change significantly during that period, but due to the medical expenses applied to her budget, she received more FAP benefits than she was eligible for. Petitioner received FAP benefits totaling \$1,834 from February 1, 2018, through January 31, 2019, but would have only been eligible for \$325 of those benefits if the Department had not mistakenly given her a medical deduction for expenses she did not actually incur. Therefore, Petitioner received a \$1,509 overissuance of FAP benefits due to Department error.

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 \$1,509 overissuance of Food Assistance Program (FAP) benefits due to a Department error, and the Department must recoup the overissuance.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dh



Kevin Scully
Administrative Law Judge
for Robert Gordon, 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

Kimberly Kilmer
800 Watertower
Big Rapids, MI 49307

Mecosta County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

DHHS Department Rep.

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

Petitioner

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Authorized Hearing Rep.

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