



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 5, 2017
MAHS Docket No.: 17-014198
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Marya Nelson-Davis

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on November 28, 2017, from Lansing, Michigan. The Michigan Department of Health and Human Services Department (Respondent or Department) was represented by Jennifer Braxmaier, Recoupment Specialist.

ISSUE

Did Petitioner receive a FAP benefit overissuance in the amount of \$3,365 that the Department must attempt to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all times relevant to this matter, Petitioner was a recipient of \$357 in FAP benefits from the Department during the period of February 2016 through December 2016. (Respondent Exhibit 5)
2. In February and March, Petitioner received Unemployment Compensation Benefits (UCB); and he started working and receiving earned income during the period of April 2016 through December 2016. (Respondent Exhibit 5)

3. Respondent's unearned and earned income received during February 2016 through December 2016, was not budgeted in determining his FAP benefit allotment for that time period. (Respondent Exhibit 5)
4. The Department determined that Petitioner received a \$3,365 FAP overissuance during the period February 2016 through December 2016, due to Petitioner's error or Petitioner's failure to report in a timely manner income he was receiving. (Respondent Exhibits 4 & 5)
5. On January 5, 2017, the Department sent Petitioner a Notice of Overissuance, indicating that he received a \$3,365 FAP overissuance due to his failure to timely report received income. (Respondent Exhibit 6)
6. The Department determined that the \$3,365 FAP overissuance that Petitioner received during the time period in question is still due and owing to the Department.
7. On January 13, 2017, Petitioner submitted a Hearing Request for Overissuance or Recoupment Action to the Department.
8. On November 8, 2017, the Michigan Administrative Hearing System (MAHS) received Petitioner's hearing request, protesting the Department's FAP overissuance determination.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance if the amount is \$250 or more, whether due to agency or client error. BAM 705 & 715. For FAP benefits, an overissuance is also the amount of benefits trafficked (stolen, traded, bought or sold) or attempted to be trafficked. BAM 700.

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. This includes changes with income. BAM 105. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700. A client error overissuance is not pursued if the estimated overissuance amount is less than \$250 per program. BAM 715. Additionally, when the household fails to provide verification of earnings from a Wage Match, the recoupment specialist is to use the income shown on the wage match report to calculate the overissuance. Specifically, to average the income over the time period reported on the task and reminder to determine a monthly income amount and to use the first and last month of the time period as the overissuance begin and end dates. BAM 802.

In this case, the Department asserts that Petitioner received an overissuance of FAP benefits in the amount of \$3,365 during the period February 2016 through December 2016, due to Petitioner's failure to report income in a timely manner. Petitioner acknowledged his rights and responsibilities by his signature, dated January 30, 2015, on an FAP application form. (Respondent Exhibit 1) Petitioner was required to timely report any changes with his household income.

Petitioner maintains that he fulfilled his reporting responsibilities. Petitioner asserts that he informed his worker that he was going to start receiving UCB income, and there was a delay before he received his first UCB check. However, Petitioner admitted that he does not remember the date or the month he contacted his worker or the Department to report the date he actually started receiving UCB. Additionally, Petitioner's mother testified that she was the one who reported Petitioner's job or earned income to the Department. However, Petitioner's mother did not remember the date she made the report to the Department.

This Administrative Law Judge has carefully considered and weighed the evidence on the record. Pursuant to BAM 105, Petitioner was responsible for reporting any changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. This includes changes with income because income is included in the FAP budget to determine the monthly allotment the FAP group is eligible to receive. Petitioner failed to meet his burden of establishing that he reported the receipt of UCB and his earned income in timely manner. On the other hand, the Department provided credible, material, and substantial evidence which establishes that the FAP overissuance that Petitioner received was due to client error. Additionally, there was no dispute regarding the FAP overissuance amount during the time period in question. Furthermore, even if the overissuance was due to an agency error, the Department would still be required to pursue the overissuance that Petitioner received since the amount exceeds \$250. BAM 705. Therefore, the Department's action in trying to recover the \$3,365 FAP overissuance is in accordance with the applicable law and the Department policy found in BAM 700 and must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly determined that Petitioner received a FAP benefit overissuance in the amount of \$3,365 that the Department must attempt to recoup.

Accordingly, the Department is **AFFIRMED**. It is further ORDERED that the Department shall initiate collection procedures for a \$3,365 FAP overissuance in accordance with Department policy.



MND/md

Marya A. Nelson-Davis
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) 335-6088; 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

Kathy Mandoka
388 Keith Wilhelm Dr.
Coldwater, MI
49036

Branch County, DHHS

M. Holden via electronic mail

D. Sweeney via electronic mail

BSC3 via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
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48909

Petitioner

