



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: December 18, 2017
MAHS Docket No.: 17-014680
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, telephone hearing was held on December 11, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by Patrick Lynaugh, Overpayment Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner had 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. Petitioner received Food Assistance Program (FAP) benefits totaling \$386 from September 1, 2017, through October 31, 2017. Exhibit A, p 7.
2. Petitioner was employed and received earned income from July 7, 2017, through October 27, 2017. Exhibit A, pp 13-15.
3. On November 1, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) for the period of September 1, 2017, through October 31, 2017, informing her of the Department's intent to recoup a \$344 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 1-5.
4. On November 13, 2017, 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 (October 1, 2015), p 1.

For client error overissuances due, at least in part, to failure to report earnings, do not allow the 20 percent earned income deduction on the unreported earnings. Department of Health and Human Services Bridges Administrative Manual (BAM) 715 (January 1, 2016), p 8.

Petitioner was an ongoing FAP recipient and received benefits totaling \$386 from September 1, 2017, through October 31, 2017. Due to Department error, the earned income Petitioner receiving during that period was not applied towards her eligibility for FAP benefits.

If Petitioner's actual income was applied towards her eligibility for FAP benefits, she was ineligible for any FAP benefits in September of 2017, because her actual gross income exceeded the monthly gross income limit. This was due to the fact that she received five weekly paychecks in September of 2017. Petitioner's food assistance would not have closed that month based on the five paychecks because that circumstance would not have been expected to continue, but when determining an overissuance, the Department uses actual income and not prospective income. If Petitioner's actual income received in October of 2017 was applied towards her eligibility for benefits, then she would have received a \$42 allotment of FAP benefits. Since Petitioner received FAP benefits totaling \$386 from September 1, 2017, through October 31, 2017, but was eligible for only \$42, she received a \$344 overissuance of FAP benefits.

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 \$344 overissuance of Food Assistance Program (FAP) benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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) 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

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Petitioner

