



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 18, 2017
MAHS Docket No.: 17-014681
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 \$388 from July 1, 2017, through August 31, 2017. Exhibit A, p 7.
2. Petitioner was off work in May of 2017, for surgery on her hand but returned to work and received earned income from June 2, 2017, through October 27, 2017. Exhibit A, pp 12-17.
3. Petitioner reported her absence from work to the Department on May 23, 2017. Exhibit A, p 12.
4. On November 1, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) for the period July 1, 2017, through August 31, 2017, informing

her of the Department's intent to recoup a \$356 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 1-5.

5. 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 in May of 2017, when she reported to the Department that she would miss work to have an operation on her hand. Petitioner returned to work after her operation and received earned income from June 2, 2017, through October 27, 2017. Due to Department error, the income Petitioner received when she returned to work was not applied towards her eligibility for FAP benefits. If the Department had properly processed Petitioner's return to work in May of 2017, her monthly allotment for FAP benefits would have been adjusted no later than the benefit period after June 28, 2017. From July 1, 2017, through August 31, 2017, Petitioner received the maximum allotment of FAP benefits for a group of one.

The Department determined Petitioner's eligibility for FAP benefits from July 1, 2017, through August 31, 2017, based on the actual income she received during that period. Initially the Department calculated this amount as if the overissuance of benefits was caused by client error and therefore did not allow her to take a 20% earned income deduction. If Petitioner is allowed to take the 20% earned income deduction, she would have been eligible for a \$32 monthly allotment of FAP benefits in July and August of 2017.

However, Petitioner received a \$194 monthly allotment of FAP benefits in those months. Therefore, Petitioner received a \$324 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 an overissuance of Food Assistance Program (FAP) benefits but did not act in accordance with Department policy when it determined that this overissuance was caused by Department error.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to its determination that Petitioner received an overissuance of Food Assistance Program (FAP) benefits and **REVERSED IN PART** with respect to the nature of that overissuance and the amount of the overissuance. The Department is **ORDERED** to **REDUCE** the overissuance amount to \$324 for the period July 1, 2017, through August 31, 2017, and initiate recoupment procedures in accordance with Department policy.

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

Christina Chamberlain
827 S Huron St.
Cheboygan, MI
49721

Cheboygan County DHHS- via electronic
mail

OIG Hearings- via electronic mail

M. Shumaker- via electronic mail

DHHS Department Rep.

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235 S Grand Ave
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Petitioner

