



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.: 17-014682
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. On [REDACTED], 2016, the Department received Petitioner's application for Food Assistance Program (FAP) benefits where she reported being laid off from her employment. Exhibit A, pp 26-47.
2. On January 22, 2016, the Department approved Petitioner's Food Assistance Program (FAP) application based on \$0 earned income. Exhibit A, pp 20-25.
3. Petitioner received Food Assistance Program (FAP) benefits totaling \$575 from June 1, 2016, through August 31, 2016. Exhibit A, p 7.
4. Petitioner returned to work on March 21, 2016, and received earned income from April 1, 2016, through November 4, 2016. Exhibit A, pp 17-19.

5. On October 12, 2017, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) for the period of June 1, 2016, through August 31, 2016, informing her of the Department's intent to recoup a \$543 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 1-5.
6. 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.

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. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (April 1, 2016), p 11. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (April 1, 2016), p 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

On January 19, 2016, the Department received Petitioner's application for FAP benefits where she reported being laid off from her employment. Petitioner was approved for FAP benefits based on \$0 earned income. Petitioner remained an active FAP recipient and received FAP benefits totaling \$575 from June 1, 2016, through August 31, 2016.

Petitioner had failed to report returning to work on March 21, 2016, and receiving earned income from April 1, 2016, through November 4, 2016. If Petitioner had reported her increase of income beginning on April 1, 2016, the Department would have

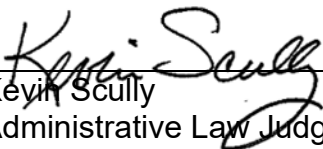
redetermined her eligibility for ongoing benefits by the benefit period after May 3, 2016. Petitioner received FAP benefits totaling \$386 from June 1, 2016, through August 31, 2016, but would have been eligible for \$32 if she had reported her earned income to the Department in a timely manner. Therefore, Petitioner received a \$543 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 \$543 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

Christina Chamberlain
827 S Huron St.
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DHHS Department Rep.

MDHHS-Recoupment
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Petitioner

