



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: September 19, 2018  
MAHS Docket No.: 18-007470-RECON  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Kevin Scully**

**AMENDED 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, a telephone hearing was held on August 16, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services was represented by Walita Randle, Recoupment Specialist.

At the conclusion of the hearing, a Hearing Decision was issued by Administrative Law Judge Kevin Scully and mailed on August 21, 2018, which is hereby **AMENDED** to correct the amount of the overissuance. All Findings of Fact and Conclusions of Law contained in the original Hearing Decision dated August 21, 2018, remain unchanged and are incorporated herein by reference.

**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. Findings of fact 1 through 21 and the conclusions of law from the hearing held on August 16, 2018, are incorporated into this amended decision.

### **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.

On August 21, 2018, a Decision and Order was issued by the Michigan Administrative Hearing System (MAHS). The Department was ordered to recoup an overissuance of FAP benefits after finding that Petitioner had received benefits he was not eligible for.

The findings of fact and conclusions of law from the August 16, 2018, hearing are incorporated into this amended hearing decision. This Administrative Law Judge found that the Department had determined a portion of the overissuance without applying an earned income deduction as required by BEM 556. The Department determined that Petitioner was eligible for FAP benefits totaling \$2,608 from September 1, 2017, through March 31, 2018, without the earned income deduction, while this Administrative Law Judge found that he should have been eligible for \$3,153.

However, due to a typographic error, the \$3,153 would be copied into the August 21, 2018, order to the Department as the amount of the overissuance.

After redetermining the amount of FAP benefits Petitioner was eligible and comparing that amount to the benefits he was actually issued, Petitioner received a \$864 overissuance of FAP benefits from September 1, 2017, through March 1, 2018, due to Department error.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the overissuance of Food Assistance Program (FAP) benefits received from June 1, 2017, through August 31, 2017, and REVERSED IN PART with respect to the overissuance received from September 1, 2017, through March 31, 2018.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

The Department is ORDERED to initiate collection procedures for a \$587 overissuance for the period of June 1, 2017, through August 31, 2017, in accordance with Department policy.

The Department is ORDERED reduce the overissuance amount to \$864 for the period of September 1, 2017, through March 31, 2018, and initiate collection procedures in accordance with Department policy.

**IT IS SO ORDERED.**

KS/tm

  
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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) 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**

Renee Olian  
322 Stockbridge  
Kalamazoo, MI  
49001

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

cc: MDHHS-RECOUPMENT-HEARINGS@Michigan.gov  
FAP: M. Holden; D. Sweeney  
Kalamazoo AP Specialist (3)