



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: November 29, 2018  
MAHS Docket No.: 18-009316  
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, a telephone hearing was held on November 21, 2018, from Lansing, Michigan. Petitioner represented himself and his wife, [REDACTED] testified on his behalf. The Department of Health and Human Services was represented by Jessica Kircheier.

**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. On [REDACTED], 2016, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 6-25.
2. Petitioner started new employment on July 12, 2017, and received earned income from July 21, 2017, through September 29, 2017. Exhibit A, pp 28-32.
3. On September 19, 2017, the Department received verification of Petitioner's earned income from employment.
4. On November 21, 2017, the Department received Petitioner's Redetermination (DHS-1010) form where he reported that he was employed. Exhibit A, pp 33-40.

5. Petitioner continued to receive earned income from employment from September 29, 2017, through March 16, 2018. Exhibit A, pp 67-69.
6. Petitioner received Food Assistance Program (FAP) benefits totaling \$3,535 from September 1, 2017, through March 31, 2018. Exhibit A, p 52.
7. On April 9, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing him that he had received a \$3,077 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 41-45.
8. On [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 5.

### **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 (January 1, 2018), p 1.

On December 5, 2016, the Department received Petitioner's application for FAP benefits where he acknowledged the duties and responsibilities of receiving public assistance. Petitioner started new employment on July 12, 2017. The Department received verification of his earned income on September 19, 2017. On November 21, 2017, Petitioner reported his employment and earned income on a Redetermination (DHS-1010) form.

Petitioner received FAP benefits totaling \$3,535 from September 1, 2017, through March 31, 2018. Due to Department error, Petitioner's income was not applied towards his eligibility to receive ongoing FAP benefits. If the Department had properly applied Petitioner's earned income towards his eligibility for ongoing FAP benefits then he would have been eligible for FAP benefits totaling \$458 from September 1, 2017, through March 31, 2018. Therefore, Petitioner received a \$3,077 overissuance of FAP benefits due to Department error.

Petitioner testified that he reported his income to the Department and is not responsible for the overissuance.

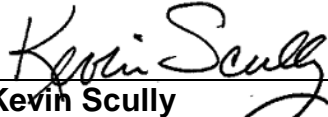
However, Petitioner received FAP benefits that he was not eligible for, and although the overissuance was not the result of fraud or concealment, the Department is required to recoup the overissuance of FAP benefits.

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 that must be recouped.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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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**

Jessica Kirchmeier  
1050 Independence Blvd  
Charlotte, MI 48813

**DHHS Department Rep.**

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Eaton County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]