



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 20, 2018
MAHS Docket No.: 18-010751
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 14, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services was represented by Walita Randle, Recoupment Specialist.

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 December 7, 2017, the Department received Petitioner's completed Redetermination (DHS-1010) where she reported that she was not employed. Exhibit A, pp 25-32.
2. On January 25, 2018, Petitioner reported that she had started employment on or around January 2, 2018, and provided a copy of her paycheck stub. Exhibit A, p 24.
3. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,560 from March 1, 2018, through June 30, 2018. Exhibit A, p 9.

4. Due to Department error, Petitioner's eligibility for Food Assistance Program (FAP) benefits was determined based on a gross monthly income of \$350 and without consideration of her earned income. Exhibit A, pp 19-20.
5. Petitioner received earned income in the gross monthly amount of \$3,149 in March of 2018, \$2,324 in April of 2018, \$3,172 of May of 2018, and \$3,902 in June of 2018. Exhibit A, pp 21-24.
6. On October 1, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that a \$2,477 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 3-7.
7. On October 10, 2018, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 2.

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.

Petitioner was an ongoing FAP recipient on January 25, 2018, when she reported to the Department that she had started employment and provided a copy of her first paycheck stub as verification of her earned income. Due to Department error, Petitioner's eligibility for ongoing FAP benefits was not redetermined based on this new source of household income.

Petitioner fulfilled her duty to report a change of employment status in a timely manner, and if the Department had properly processed this information, it would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after February 13, 2018.

Petitioner received FAP benefits totaling \$2,560 from March 1, 2018, through June 30, 2018. These benefits were based on a gross monthly income of \$350. If Petitioner's actual income has been applied towards her eligibility for FAP benefits, she would have been eligible for only \$83 of those benefits during that period. Therefore, Petitioner received \$2,477 of FAP benefits that she was not eligible for.

Petitioner argued that she should not be penalized because she had done everything correctly.

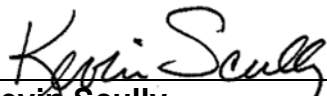
The Department is not alleging that Petitioner failed to report her circumstances or concealed her income, but the Department is required by BAM 700 to recoup an overissuance of FAP benefits even when it was caused by Department error.

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 FAP benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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

Jeanenne Broadnax
25637 Ecorse Rd.
Taylor, MI 48180

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
Lansing, MI 48909

Wayne County (District 18), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

