



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed:  
MAHS Docket No.: 18-012417  
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 January 2, 2019, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Vicki DeKruiger.

**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 October 16, 2017, the Department received Petitioner's Redetermination (DHS-1010) form. Exhibit A, pp 7-14.
2. Petitioner reported on his October 16, 2017, Redetermination form that he was not receiving any income. Exhibit A, p 11.
3. Petitioner reported on his October 16, 2017, Redetermination form that he did not have any household expenses that he was responsible to pay. Exhibit A, p 12.
4. Respondent acknowledged under penalties of perjury that his October 16, 2017, redetermination form was examined by or read to him, and, to the best of his knowledge, contained facts that were true and complete. Exhibit A, p 13.

5. On November 21, 2017, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits based on no income effective December 1, 2017. Exhibit A, pp 15-20.
6. On August 17, 2018, the Department received a Wage Match Client Notice (DHS-4638) showing that Petitioner had started employment on December 9, 2017. Exhibit A, pp 23-24.
7. On August 22, 2018, the Department completed an Overissuance Referral (DHS-4701). Exhibit A, p 25.
8. Petitioner received earned income from January 2, 2018, through August 14, 2018. Exhibit A, p 29.
9. Petitioner received earned income from September 14, 2018, through September 25, 2018. Exhibit A, pp 27-28.
10. On October 30, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) informing him that the Department would recoup a \$1,200 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 45-49.
11. On December 3, 2018, 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 (October 1, 2018), p 1.

On October 16, 2017, Petitioner reported to the Department that he did not have any income or obligation to pay any shelter expenses. Based on this information, the Department notified Petitioner that he was eligible for the maximum allotment of FAP benefits available to a household of one.

Petitioner started new employment on December 9, 2017, and received earned income from January 2, 2018, through September 25, 2018. The evidence supports a finding that Petitioner did not report this increase of earned income to the Department.

If Petitioner had reported his first paycheck in a timely manner, the Department would have redetermined his eligibility for ongoing FAP benefits by the first benefit period after February 3, 2018. Instead, Respondent continued to receive FAP benefits from March 1, 2018, through September 30, 2018, based on no income. Petitioner received FAP benefits totaling \$1,344 from March 1, 2018, through September 30, 2018, but would have been eligible for only \$144 of those benefits if his actual income in each month had been considered. Therefore, Petitioner received a total of \$1,200 of FAP benefits that he was not eligible for.

Petitioner disputed the fact that no shelter expenses were applied towards his eligibility for FAP benefits.

However, Petitioner failed to establish that he had reported having any shelter expenses and did not offer any evidence on the record that he had any out of pocket shelter expenses from March 1, 2018, through September 30, 2018. If the client fails to verify a reported change in shelter, the Department will not count that expense. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), p 14.

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 \$1,200 overissuance of Food Assistance Program (FAP) benefits that must be recouped.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh

  
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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**

Denise Croff  
301 E. Louis Glick Hwy.  
Jackson, MI 49201

**DHHS Department Rep.**

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

Jackson County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]