



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: March 12, 2019  
MAHS Docket No.: 18-014049  
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 March 6, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Walita Randle, Recoupment Specialist.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine that Petitioner has 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], 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits.
2. Petitioner received Food Assistance Program (FAP) benefits as a group of three totaling \$1,784 from July 1, 2018, through October 31, 2018.
3. Petitioner failed to report to the Department that she started employment and received earned income from May 17, 2018, through October 4, 2018.
4. The monthly gross income limit for a group of three from July 1, 2018, through September 30, 2018, was \$2,213, and \$2,252 in October of 2018. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2017, and October 1, 2018), p 1.

5. If all of Petitioner's household income was applied towards her eligibility for Food Assistance Program (FAP) benefits from July 1, 2018, through October 31, 2018, she would have been eligible for only \$96 of those benefits.
6. On October 26, 2018, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$1,688 overissuance of Food Assistance Program (FAP) benefits.
7. On November 7, 2018, 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, 2018), 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 (January 1, 2018), p 12. 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 (January 1, 2018), p 7. A pended 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.

Petitioner was an ongoing FAP recipient as a group of three after submitting her application for assistance on [REDACTED], 2017. Petitioner reported the Supplemental Security Income (SSI) being received in her household but failed to report when she started new employment. Petitioner received earned income from May 17, 2018,

through October 4, 2018. If Petitioner had reported receiving her first paycheck in a timely manner, the Department would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after June 18, 2018. Petitioner received FAP benefits totaling \$1,784 from July 1, 2018, through October 31, 2018. If Petitioner had reported the earned income she received from her employment, her household's income would have exceeded the gross income limit for a group of three from July 1, 2018, through September 30, 2018, and she would not have received any FAP benefits. In October of 2018, Petitioner received less earned income. Petitioner's household would not have been totally ineligible for FAP benefits in that month but would have been eligible for benefits totaling only \$96 if all income had been applied towards their eligibility for those benefits. Regardless of whether the failure to report employment was intentional or a mistake, Petitioner was not eligible for the FAP benefits her household received. Therefore, Petitioner received a \$1,688 overissuance of FAP benefits.

Petitioner testified that she reported her employment and income to the Department but was unable to present any evidence supporting her testimony.

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 Food Assistance Program (FAP) benefits that she was not eligible for that must be recouped.

#### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh

  
\_\_\_\_\_  
**Kevin Scully**  
Administrative Law Judge  
for Robert Gordon, 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

Wayne County (District 18), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**DHHS Department Rep.**

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

**Petitioner**

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