



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

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██████████ MI ██████████

Date Mailed: February 27, 2019
MAHS Docket No.: 18-014052
Agency No.: ██████████
Petitioner: ██████████

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 February 20, 2019, from Lansing, Michigan. Petitioner was represented by his wife ██████████. The Department was represented by Michelle Corgan.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits?

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 ██████████ 2013, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a household of two. Exhibit A, pp 101-124.
2. Petitioner reported on his ██████████ 2013, application form that he was employed as of June 18, 2012, and expected to employment to continue. Exhibit A, p 111.
3. Petitioner reported on his ██████████ 2013, application form that his wife was enrolled in a post-secondary educational institution, which made her ineligible for Food Assistance Program (FAP) benefits. Exhibit A, p 114.

4. Petitioner was employed and received earned income from January 1, 2013, through December 31, 2013. Exhibit A, pp 29-82.
5. Petitioner received Food Assistance Program (FAP) benefits recipient as a group of one totaling \$2,358 from January 1, 2013, through December 31, 2013. Exhibit A, pp 2-3.
6. Due to Department error, Petitioner's earned income was not considered when determining his monthly allotment of Food Assistance Program (FAP) benefits, and he would have been eligible for only \$126 of those benefits if his income had been applied towards his eligibility. Exhibit A, pp 4-27.
7. On November 18, 2014, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing him that he had received a \$2,358 overissuance of Food Assistance Program (FAP) benefits. Exhibit A, pp 83-88.
8. Department records indicate that the Department received Petitioner's verbal request for a hearing on December 1, 2014, protesting the recoupment of an overissuance of Food Assistance Program (FAP) benefits. Exhibit A, p 1.

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.

States must establish claims even if they cannot be established within the timeframes outlined by federal regulations. 7 CFR 273.18(d)(3).

Repayment of an overissuance is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred, or an FAP-authorized representative if they had any part in creating the FAP overissuance. The Department will collect from all adults who were a member of the case. Administrative recoupment may be deducted on more than one case for a single

overissuance. Department of Human Services Bridges Assistance Manual (BAM) 725 (October 17, 2017), p 1.

On [REDACTED] 2013, Petitioner applied for FAP benefits and reported that he was employed. Petitioner was approved for FAP benefits as a group of one because his wife was an ineligible student. Due to Department error, Petitioner received FAP benefits totaling \$2,358 from January 1, 2013, through December 31, 2013, because the income he reported to the Department was not properly considered. If the Department had properly considered Petitioner's income when determining his eligibility for FAP benefits, then he would have been eligible for only \$126 of those benefits. Therefore, Petitioner received a \$2,232 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 he received an overissuance of Food Assistance Program (FAP) benefits 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

