



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 10, 2019
MOAHR Docket No.: 19-003984
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. A hearing scheduled for May 20, 2019, was adjourned on May 14, 2019. After due notice, an in-person hearing was held on June 6, 2019, from St. Johns, Michigan. Petitioner represented herself. The Department was represented by Kurt Sperry.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petition 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. Petitioner was an ongoing Food Assistance Program (FAP) recipient on ██████████ 2014, when the Department received a note from Petitioner's employer indicating that she would be off work for medical reasons. Exhibit A, pp 2-3.
2. On ██████████ 2014, the Department received Petitioner's Redetermination (DHS-1010) when she reported to the Department that her only source of income was from child support. Petitioner also reported having a \$600 monthly housing expense. Exhibit A, pp 4-9.
3. The Department scheduled a redetermination interview for May 6, 2014. Exhibit A, p 4.

4. On May 31, 2014, the Department notified Petitioner that she was eligible for a \$408 monthly allotment of Food Assistance Program (FAP) benefits as a group of three based on unearned income in the gross monthly amount of \$716 and no earned income. Exhibit A, pp 10-17.
5. On April 7, 2015, the Department received verification that Petitioner was receiving earned income in the gross weekly amount of \$200. Exhibit A, pp 19-20.
6. On September 14, 2017, the Department received verification from its electronic database with the Michigan Unemployment Insurance Agency that Petitioner was receiving earned income in the gross quarterly amounts of ██████ in the first quarter of 2014, ██████ in the second quarter of 2014, ██████ in the third quarter of 2014, ██████ in the fourth quarter of 2014, ██████ in the first quarter of 2015, and ██████ in the second quarter of 2015. Exhibit A, p 24.
7. Petitioner received Food Assistance Program (FAP) benefits totaling \$4,131 from June 1, 2014, through April 30, 2015. Exhibit A, pp 26-28.
8. On April 3, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that a \$3,368 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 52-56.
9. On April 12, 2019, the Department received Petitioner's request for a hearing protesting the recoupment 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 (October 1, 2018), p 1.

On March 7, 2014, Petitioner was an ongoing FAP recipient as a group of three when the Department received her report that she would be off work for medical reasons. On April 27, 2015, the Department received Petitioner's Redetermination (DHS-1010) form. Petitioner reported to the Department that the only income she was receiving was child support. Petitioner also reported to the Department that she was responsible for housing expenses of \$600 per month. On May 31, 2014, the Department notified Petitioner that she was eligible for a \$408 monthly allotment of FAP benefits as of June 1, 2014, based on [REDACTED] earned income and unearned income in the gross monthly amount of [REDACTED].

Petitioner testified that she reported to the Department on May 6, 2014, that she had returned to work.

Petitioner received FAP benefits totaling [REDACTED] from June 1, 2014, through April 30, 2015, and these benefits were determined based on no earned income coming into the household. Petitioner's monthly allotment as of June 1, 2014, was based on an adjusted gross income of [REDACTED], which was determined by reducing her child support income in the gross monthly amount of [REDACTED] by the \$151 standard deduction. Petitioner was given a [REDACTED] shelter deduction, which was determined by reducing the \$553 heat and utility deduction by 50% of her adjusted gross income. Petitioner's net income of [REDACTED] was determined by reducing her adjusted gross income by the shelter deduction. A group of three with a net income of [REDACTED]4 was eligible for a \$408 monthly allotment of FAP benefits in June of 2014. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2013), p 4.

Petitioner was not given credit for the \$600 monthly housing expense she reported on her April 25, 2014, Redetermination form. It is not clear whether this was a change in the expense amount, or whether she was reporting an ongoing expense. If Petitioner was reporting a change of housing expenses, the Department would have removed this expense from the budget pending verification of the new expense as directed by BEM 554.

However, it is clear that Petitioner did not receive a deduction for housing expenses as of June 1, 2014. If Petitioner was given credit for the \$600 housing expenses she reported on April 25, 2014, Petitioner's monthly shelter expenses would have exceeded the allowable deduction for a household not containing a disabled or senior member. Petitioner would have received the \$478 maximum shelter deduction, and her net income would have been \$87. A group of three with a net monthly income of [REDACTED] would have been eligible for a \$470 monthly allotment of FAP benefits in June of 2014. RFT 260 (October 1, 2014) p 2.

Petitioner received a \$408 monthly allotment of FAP benefits from June 1, 2014, through September 30, 2014. On October 1, 2014, the eligibility standards changed, and Petitioner received a \$357 monthly allotment of FAP benefits from October 1, 2015, through April 30, 2015. The evidence supports a finding that during this entire time, the earned income Petitioner was receiving was not applied towards her eligibility for ongoing FAP benefits. Petitioner received earned income in the second quarter of 2014

in the gross amount of [REDACTED]. If Petitioner had reported this income and the income that continued through April 30, 2015, then Petitioner would have received FAP benefits totaling \$763 during this period. Therefore, Petitioner received a \$3,368 overissuance of FAP benefits from June 1, 2014, through April 30, 2015.

Petitioner's claims to have reported returning to work on May 6, 2014, but was unable to support this claim with any evidence other than her testimony. No evidence was presented during the hearing that Petitioner provided the Department with written verification of her income after returning to work, which is the normal procedure under those circumstances. Therefore, the Department has established that Petitioner received FAP benefits that she was not eligible for, and that overissuance of FAP benefits was caused by Petitioner's failure to report her income.


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 \$3,368 overissuance of Food Assistance Program (FAP) benefits.

Petitioner testified that she requested that the Department compromise (reduce or eliminate) the overissuance based on her circumstances. This request is outside the scope of this hearing request and therefore will not be addressed here.

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Erin Bancroft
105 W. Tolles Drive
St. Johns, MI 48879

Clinton County, DHHS

BSC2 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

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