



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 6, 2019
MOAHR Docket No.: 19-006922
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

Following the 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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 30, 2019, from Lansing, Michigan. The Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Recoupment Specialist Toni Grimes. Ms. Grimes testified on behalf of the Department. The Department submitted 91 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine that the Petitioner had received an overissuance of \$1,068.00 for the time period of April 1, 2017 through September 30, 2017?

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 29, 2015, the Department mailed Petitioner a Notice of Case Action informing him that he had been approved to receive \$16.00 a month in FAP benefits from October 1, 2015 through September 30, 2017. [Dept. Exh. 42-46].
2. On March 2, 2017, the Department mailed Petitioner a Notice of Case Action informing the Petitioner that his FAP benefits would be increasing to \$194.00 a month from April 1, 2017 through September 30, 2017. [Dept. Exh. 57-59].

3. On [REDACTED] [REDACTED] 2017, Petitioner submitted an application for FAP benefits in which he reported that he was paying \$400.00 a month in rent. [Dept. Exh. 60-75].
4. On April 14, 2017, the Department mailed Petitioner a Verification Checklist, requesting proof of rent and utilities. [Dept. Exh. 76-77].
5. On April 14, 2017, the Department mailed a Notice of Case Action to the Petitioner informing him that as of May 1, 2017 ongoing, he would receive -0- in FAP benefits. [Dept. Exh. 78-79].
6. On September 5, 2017, Petitioner submitted a Redetermination which indicated that he lived with his Authorized Representative, [REDACTED] [REDACTED] and he helped with paying the utilities and phone. [Dept. Exh. 80-88].
7. On May 30, 2019, the Department mailed Petitioner a Notice of Overissuance, informing Petitioner that he had received an overissuance of \$1,068.00 for the time period of April 1, 2017 through September 30, 2017, based on an agency error that the Department was entitled to collect. [Dept. Exh. 8-12].

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.

Departmental policy, BAM 700, Benefit Overissuances, states that when a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance. BAM 700, p 1 (10/1/2016). 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. BAM 725, p 1 (1/1/2017). Bridges will collect from all adults who were a member of the case. *Id.*

An agency error is caused by incorrect action (including delayed or no action) by the Department staff or Department processes. BAM 700, p 4. Agency errors will be assigned to the client depending on the type of agency error that occurred. *Id.* at 6.

In this case, the Petitioner submitted a FAP application on [REDACTED] [REDACTED] 2017, indicating he was paying \$400.00 a month in rent. On September 5, 2017, the Petitioner submitted a Redetermination and indicated that he was only helping with utilities and the phone. The Petitioner's authorized representative did not dispute that the Petitioner had not been paying rent.

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 found that the Petitioner received an overissuance of \$1,068.00 for the time period of April 1, 2017 through September 30, 2017, that the Department was entitled to collect

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

VLA/nr



Vicki L. Armstrong
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

Holly DeGroat
515 South Sandusky
Sandusky, MI
48471

Sanilac County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS Department Rep.

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

Petitioner

[REDACTED]
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[REDACTED], MI
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