



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: September 5, 2019
MOAHR Docket No.: 19-007975
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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; 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 August 28, 2019, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by LaCre Barnett, Recoupment Specialist. Department Exhibit 1, pp. 1-66 was received and admitted.

ISSUE

Did Petitioner receive an over-issuance (OI) 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. Petitioner was a household member in a FAP group.
2. The Department alleges Petitioner received a FAP OI during the period March 1, 2016, through August 31, 2016, due to Petitioner's error.
3. Petitioner did not sign an application for FAP benefits prior to the alleged fraud period.
4. Petitioner's wife [REDACTED] [REDACTED] signed an online FAP application [REDACTED] [REDACTED] 2016. (Ex. 1, p. 47)

5. The Department alleges that Petitioner received \$1,916 OI that is still due and owing to the Department due to client error for failing to report income.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

Client Error All Programs

A **client error** occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department.

A client error also exists when the client's timely request for a hearing result in deletion of a MDHHS action, **and any of the following occurred:**

- The hearing request is later withdrawn.
- MAHS denies the hearing request.
- The client or administrative hearing representative fails to appear for the hearing and MAHS gives MDHHS written instructions to proceed.
- The hearing decision upholds the department's actions; see BAM 700.

The Department is pursuing an overissuance due to alleged client error in not reporting employment income. Petitioner did not sign a FAP application prior to the alleged fraud period. Petitioner's wife signed an application dated [REDACTED] [REDACTED] 2016. (Ex.1, p.47) It is unclear why this action was pursued against Petitioner and not his wife whose name the case was in at the time of the alleged fraud. Petitioner was not the client therefore the Department has not established that Petitioner received an overissuance due to client error. The Department representative stated that the family's case was put in Petitioner's name at some point after the fraud period but could not explain why and provided no documentation showing why or when the change was made. Petitioner signed nothing acknowledging his rights and responsibilities and the Department provided no proof that Petitioner was given notice regarding his reporting responsibilities prior to the alleged fraud period. Therefore, no overissuance was established. BAM 700

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a FAP benefit OI due to client error.


DECISION AND ORDER

Accordingly, the Department is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the overissuance.
2. Restore Petitioner's FAP benefit to the amount prior to the reduction.
3. Issue a supplement for any missed benefits.

AM/nr



Aaron McClintic
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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
49507

Kent County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
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Petitioner

[REDACTED]
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