



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 13, 2019
MOAHR Docket No.: 19-008295
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 September 5, 2019, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Recoupment Specialist, Jody Anderson. Ms. Anderson testified on behalf of the Department. The Department submitted 49 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did Respondent receive 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. Petitioner was a recipient of FAP benefits from the Department. [Dept. Exh. 5-6].
2. On March 28, 2019, the Department issued Petitioner a Notice of Case Action informing her that she was a Simplified Reporter and had been approved for \$561.00 a month in FAP benefits from April 1, 2019 through March 31, 2020. The Notice also directed that she was required to report to the Department when her household income exceeded the income limit of \$3,188.00. [Dept. Exh. 32-36].

3. On or about April 29, 2019, Petitioner returned to work. As a result, Petitioner exceeded the simplified reporting requirements of \$3,188.00 a month for May, June and July 2019. FAP closed effective August 1, 2019. [Dept. Exh. 20-21].
4. On May 13, 2019, Petitioner attempted to submit an earnings statement, but the worker was unable to open it because it was password protected. The Department did not receive earnings statements from Petitioner until June 17, 2019, according to Petitioner's electronic case file. [Dept. Exh. 23].
5. The Department had no record of Petitioner reporting her income from Walmart within the mandated 10 days from the date in change of circumstances.
6. On July 2, 2019, the Office of Inspector General received an Overissuance Referral indicating Petitioner's income had increased from the budget in this case based on a MAGI income request. [Dept. Exh. 49].
7. Petitioner received a \$453.00 overissuance that is still due and owing to the Department for the July 1, 2019 through July 31, 2019 fraud period. [Dept. Exh. 3, 8-13, 17].
8. On August 9, 2019, Petitioner submitted a hearing request contesting the Department's actions. [Hearing Request].

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 (1/1/2018). 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 (10/1/2015). Bridges will collect from all adults who were a member of the case. *Id.*

Petitioner testified that she called her worker in late April 2019 and left a message that she was returning to work. Petitioner stated that she had submitted her paystubs in May, but the password did not work, so her worker was unable to open them. Petitioner submitted no evidence that she had timely informed the Department of her employment. Because Petitioner failed to properly report her employment within 10-days of beginning employment, Petitioner received an overissuance of \$453.00 for the period of July 1, 2019 through July 31, 2019.

On or about August 8, 2019, the Department received a wage match from the Work Number indicating Petitioner was employed at [REDACTED] and had been working at [REDACTED] since she received her first check, dated [REDACTED] 2019. The Department had no record of Petitioner reporting her income from [REDACTED]. As a result, Petitioner's earned income was not budgeted.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit overissuance to Petitioner totaling \$453.00.

DECISION AND ORDER

Accordingly, the Department 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

Carisa Drake
190 East Michigan
Battle Creek, MI
49016

Calhoun County DHHS- via electronic mail

OIG Hearings- via electronic mail

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DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
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Petitioner

 MI