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

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

[redacted], MI [redacted]

Date Mailed: November 5, 2019
MOAHR Docket No.: 19-010187
Agency No.: [redacted]
Petitioner: [redacted]

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 October 16, 2019, was adjourned on October 11, 2019. After due notice, an in-person hearing was held on October 30, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services was represented by Adele Sumption and Michele Wellch.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner 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 acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits on an application for assistance dated [redacted], 2016. Exhibit A, pp 1-25.

2. On February 29, 2016, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits based on no earned income from employment as of February 16, 2019. Exhibit A, pp 26-31.

3. On January 5, 2017, the Department received Petitioner's Redetermination form when she reported that her employment had ended as of October 12, 2016. Exhibit A, pp 32-40.

4. On March 8, 2017, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits based on no earned income as of February 1, 2017. Exhibit A, pp 41-46.

5. On May 11, 2018, the Department received verification that Petitioner was employed as of April 15, 2016, and received earned income from April 25, 2016, through November 7, 2016. Exhibit A, pp 47-50.

6. Petitioner received Food Assistance Program (FAP) benefits totaling $1,831 from June 1, 2016, through November 30, 2016. Exhibit A, pp 61-73.

7. On August 28, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that a $1,735 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 74-79.

8. On September 9, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.

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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (October 1, 2019), p 12. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (April 1, 2019), p 7. A pended negative action occurs when a negative action requires timely notice

based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

Petitioner acknowledged the duties and responsibilities of receiving FAP benefits on an application for assistance dated [redacted] 2016. These duties included the duty to report a change of circumstances including a change of employment status and an increase of household income.

The evidence supports a finding that Petitioner started employment on April 15, 2016, and received earned income from April 26, 2016, through November 7, 2016. If Respondent had reported her April 25, 2016, paycheck to the Department, then the Department would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after May 28, 2016.

Respondent received FAP benefits from June 1, 2016, through November 30, 2016, and her eligibility for benefits totaling $1,831 was based on her receipt of no earned income. If the Department had considered Petitioner's earned income when it determined her eligibility for benefits, she would have been eligible for FAP benefits totaling $96 during that period. Therefore, Petitioner received a $1,735 overissuance of FAP benefits.

Petitioner testified that she reported her employment to the Department in a timely manner and provided the Department with verification of her earned income.

However, Petitioner was unable to offer any evidence supporting her assertion that she did report her earned income in a timely manner.

The hearing record supports a finding that Petitioner received an overissuance of FAP benefits due to unreported earned 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 an overissuance of Food Assistance Program (FAP) benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb

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

Fiona Wicks
12185 James St Suite 200
Holland, MI 49424

DHHS Department Rep.

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

Ottawa County (District 70), DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

MDHHS-OIG via electronic mail

Petitioner

[redacted], MI [redacted]