



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: November 25, 2019  
MOAHR Docket No.: 19-011468  
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. After due notice, telephone hearing was held on November 20, 2019, from Lansing, Michigan. Petitioner and her husband [REDACTED] [REDACTED] appeared for the hearing. The Department was represented by Rebecca Smalley.

### **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. On **March 7**, 2016, the Department received Petitioner's application for assistance where she acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits. Exhibit A, pp 8-29.
2. Petitioner reported on her **March 7**, 2016, application form that her employment had ended after being laid off. Exhibit A, p 20.
3. On April 5, 2016, the Department notified Petitioner that her Food Assistance Program (FAP) application had been approved as a household of give receiving no income. Exhibit A, pp 52-57.

4. Petitioner received Food Assistance Program (FAP) benefits totaling \$3,855 from July 1, 2016, through November 30, 2016. Exhibit A, pp 50-51.
5. On February 1, 2017, the Department received Petitioner's Redetermination (DHS-1010) form where she reported that she was receiving unemployment compensation benefits. Exhibit A, pp 58-65.
6. Petitioner was employed from May of 2016 through November of 2016. Exhibit A, pp 66-70.
7. Petitioner received unemployment compensation benefits in December of 2016. Exhibit A, pp 72-75.
8. On October 14, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that a \$2,219 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 5-7.
9. On [REDACTED] the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 7.

### **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.

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.

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.

Petitioner acknowledged the duties and responsibilities of receiving FAP benefits on an application for assistance dated March 7, 2016. These duties and responsibilities

included the duty to report changes of employment status and increases of household income. Petitioner did not have an apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.

Petitioner received FAP benefits totaling \$3,855 from July 1, 2016, through November 30, 2016. During those months, Petitioner was incorrectly receiving FAP as a household of five receiving [REDACTED] income.

However, Petitioner was employed and receiving earned income from May of 2016, through November of 2016. If Petitioner had reported returning to work in a timely manner, the Department would have redetermined her eligibility for ongoing FAP benefits by July 1, 2016. If the Department had applied Petitioner's income towards her eligibility for FAP benefits during that period, she would have been eligible for only \$1,636 of those FAP benefits. Therefore, Petitioner received \$2,219 of FAP benefits that she was not eligible for.

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 Food Assistance Program (FAP) overissuance of \$2,219 that must be recouped.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**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**

Lee Harris  
413 Maple Street  
Munising, MI 49862

Alger County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

MDHHS-OIG via electronic mail

**DHHS Department Rep.**

MDHHS-Recoupment  
235 S Grand Ave  
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**Petitioner**

[REDACTED], MI [REDACTED]