



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 23, 2019
MOAHR Docket No.: 19-012465
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a 3-way hearing was held on December 19, 2019, from ██████████ Michigan. The Department was represented by Jody Anderson, Recoupment Specialist. The Respondent was represented by himself.

ISSUE

Did Respondent receive an overissuance (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. Respondent was a recipient of FAP benefits from the Department for the period October 1, 2013, through May 24, 2014. Exhibit B, p. 8.
2. The Department alleges Petitioner received a FAP OI during the period October 1, 2013, through March 31, 2014, due to Petitioner's client error.
3. Petitioner had income from Employment during the Period of August 2013 through March 30, 2014. Exhibit B, pp. 24-26.

4. On September 19, 2019, the Department sent the Petitioner a Notice of Overissuance stating Petitioner had been overissued FAP benefits in the amount of \$1,111.00 during the period of October 1, 2013, through March 31, 2014. Exhibit B, p. 2.
5. On November 25, 2019, the Petitioner filed a timely hearing request protesting the Department action for recoupment. Exhibit A, p. 5.
6. The Department alleges that Petitioner received a \$1,111.00 OI that is still due and owing to the Department.

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.

In this case, Petitioner obtained new employment in August of 2013 at [REDACTED]. The Department testified that Petitioner failed to report the change employment/income. As a result, the income was not budgeted, and Petitioner received an overissuance in FAP benefits during the period of October 1, 2013, through March 31, 2014, due to client error.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2018), p. 1. 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. BAM 700, p. 6. An agency error is caused by incorrect action by the Department staff or Department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (October 2018), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8. For client error overissuances due, at least in part, to failure to report earnings, the Department does not allow the 20 percent earned income deduction on the unreported earnings. BAM 720 (October 2017), p. 10.

In support of its contention that Petitioner was overissued benefits, the Department presented FAP overissuance budgets for the period of October 1, 2013, through March 31, 2014. Exhibit B, pp. 12-23. The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of Petitioner's unreported income. The Department received verification of Petitioner's income from the Work Number as Petitioner was sent a Wage Match Notice which was not returned. The Petitioner did not dispute the income amounts reported and used by the Department when calculating the FAP OI budgets. The Wage Match Notice was sent to the Petitioner's application address. There was no evidence based on the case file, Electronic Case File (ECF), that Petitioner advised the Department of a new address, nor was there anything received in the case file indicating Petitioner reported the change that he was employed to the Department. The Department used the Work Number to calculate Petitioner's actual unreported income during the overissuance period. Exhibit B, pp. 24-26. The Department also presented Petitioner's FAP Benefit Summary Inquiry, Exhibit B, pp. 9-10. The Benefit Summary Inquiry shows Petitioner was issued FAP benefits in the amount of \$200.00 for October 2013 and thereafter \$189.00 for November 2013 through March 31, 2014. The Department also provided evidence that in March of 2014 the Petitioner received \$187.00 of FAP benefits which were spent and \$2.00 of benefits were expunged because the EBT Card (Card) was not used for a year leaving that amount left on it which was expunged and is not part of the OI. Exhibit B, p. 10.

Petitioner testified that he destroyed the EBT Card shortly after he became employed with [REDACTED] and did not receive the FAP benefits issued. He could not recall if he ever reported to the Department that he was working. As previously stated, the ECF indicated no such communication was received from Petitioner reporting that he was employed. If the Card was destroyed and cut up, it could not be used nor would the pin number be known by anyone finding the Card. The Card was not reported lost or stolen.

The Department presented sufficient evidence to establish that Petitioner had been overissued FAP benefits as a result of client error. Petitioner's testimony was too vague to be considered credible. As such, the Department established that it was entitled to recoup overissued FAP benefits in the amount of \$1,111.00 for the period of October 1, 2013, through March 31, 2014.

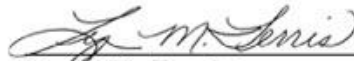
DECISION AND ORDER

The Administrative Law Judge, based upon 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 Petitioner was overissued FAP benefits in the amount of \$1,111.00 during the period of October 1, 2103, through March 31, 2014.

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

The Department is ORDERED to initiate collection procedures for \$1,111.00 OI in accordance with Department policy.

LMF/jaf



Lynn M. Ferris
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 (via electronic mail)

Carisa Drake
MDHHS- [REDACTED] Hearings
BSC3
M Holden
D Sweeney

DHHS Department Rep.
(via electronic mail)

MDHHS-Recoupment

Petitioner (via first class mail)

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]