



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 15, 2019
MAHS Docket No.: 18-012952
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 3-way telephone hearing was held on December 5, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Julie Barr, recoupment specialist. Lorraine Massie, supervisor, testified on behalf of MDHHS.

ISSUE

The issue is whether MDHHS properly established a recipient claim of Food Assistance Program (FAP) benefits against Petitioner due to an overissuance.

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 [REDACTED], 2017, Petitioner submitted to MDHHS an electronic application. Boilerplate language stated that clients are to report changes to MDHHS within 10 days. (Exhibit A, pp. 6-36).
2. On December 7, 2017, MDHHS issued FAP benefits to Petitioner, beginning December 7, 2017. based on employment income of \$0. MDHHS also mailed Petitioner notice of the approval and a Change Report. Exhibit A, pp. 37-42.
3. From March 2018 through November 2018, MDHHS issued FAP benefits to Petitioner totaling \$1,728. Each benefit month's issuance factored \$0 employment income. Exhibit A, pp. 44-79.

4. From January 19, 2018, through December 7, 2018, Petitioner received ongoing biweekly employment income from employment with one or more dollar stores (hereinafter, "Employers"). Exhibit A, pp. 101-105.
5. On November 26, 2018, MDHHS calculated that Petitioner received an OI of \$1,570 in FAP benefits from March 2018 through November 2018 due to allegedly unreported employment income. (Exhibit A, pp. 82-100.)
6. On November 26, 2018, MDHHS mailed Petitioner a Notice of Overissuance and Overissuance Summary informing Petitioner of \$1,570 in over-issued FAP benefits from March 2018 through November 2018. The overissuance was stated to be the result of client's failure to report employment income. (Exhibit A, p. 116-117.)
7. As of November 26, 2018, Petitioner did not report to MDHHS employment with a dollar store.
8. On [REDACTED], 2018, Petitioner requested a hearing to dispute the overissuance.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute MDHHS' attempts to establish a recipient claim related to allegedly overissued FAP benefits. MDHHS presented a Notice of Overissuance dated November 26, 2018. The notice informed Petitioner of a \$1,570 overissuance from March 2018 through November 2018.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 700 (January 2018), pp. 1-2. An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. *Id.* Recoupment is an MDHHS action to identify and recover a benefit overissuance. *Id.* Federal regulations refer to overissuances as "recipient claims" and mandate states to collect them. 7 CFR 273.18(a).

The types of recipient claims are those caused by agency error, unintentional recipient claims, and IPV. 7 CFR 273.18(b). MDHHS pursues FAP-related client errors when they exceed \$250. BAM 715 (October 2017) p. 7.

Federal regulations mandate states to mandate clients to report income within 10 days after an income begins. 7 CFR 273.12(a)(2). MDHHS policy properly reflects federal regulations within their policy. BAM 105 (January 2015), p. 7.

MDHHS presented FAP budgets from the OI period and corresponding OI budgets. The budgets appeared to be identical other than the OI budgets factoring Petitioner's actual employment income from Employers. A total OI of \$1570 was calculated for the OI period.

In calculating Respondent's "correct" issuance, MDHHS deprived Respondent of a 20% income credit for reporting employment income. BEM 556 states that clients who fail to report employment income are not entitled to the credit. Thus, for the OI budgets to be correct, it must be established that Respondent failed to report employment income to MDHHS. MDHHS alleged that Petitioner failed to report employment income. Such an allegation is consistent with Petitioner's receipt of FAP benefits for several months without employment income being budgeted. During the hearing, Petitioner never disputed the allegation that he failed to report employment income. Based on the evidence, Petitioner failed to report employment income to MDHHS. Thus, MDHHS properly deprived Respondent of the 20% credit for reporting employment income.

Given the evidence, MDHHS properly calculated that Petitioner received an OI of \$1,570 in FAP benefits from March 2018 through November 2018. Thus, MDHHS established a recipient claim against Petitioner.

Petitioner's hearing request implied a hardship to establishment of a recipient claim because of his rent obligation of \$450/month and a lack of financial help from others. MDHHS can reduce or vanquish recipient claims when the overissuance cannot be paid within three years due to economic hardship. BAM 725 (October 2017), p. 1. Requests for hardship must be made from the recoupment specialist to the Overpayment, Research and Verification Section office outlining the facts of the situation and client's financial hardship. *Id.* The manager of the MDHHS Overpayment, Research and Verification Section has final authorization on the determination for all compromised claims. *Id.* As MDHHS has "final authorization" of all hardship claims, jurisdiction cannot be extended to consideration of Petitioner's claim of hardship. Furthermore, even if jurisdiction could be extended, Petitioner's unverified claim of a rent obligation and lack of assistance of others would not be sufficient to justify reduction or vanquishing the recipient claim.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly established a client-error recipient claim of \$1,570 based on FAP benefits over-issued to Petitioner from March 2018 through November 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki
Administrative Law Judge
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Houghton-Hearings
MDHHS-Recoupment
M. Holden
D. Sweeney
BSC1- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

██
██
██