



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: September 2, 2020
MOAHR Docket No.: 20-004689
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 August 12, 2020. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Julie Barr, Recoupment Specialist.

Department Exhibit A.51 was offered and admitted into the record.

ISSUE

Did the Department properly determine that Petitioner was overissued 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. On June 23, 2020, the Department issued a Notice of Overissuance in the amount of \$355.00 for the period of May 1, 2020 through May 31, 2020 overissuance months, due to client error. Exhibit A.45.
2. Petitioner is a change reporter, required to complete the change report form.
3. On March 14, 2020, Petitioner's began receiving Unemployment Compensation Benefits (UCB) which Petitioner failed to report.
4. In May 2020, Petitioner was issued \$355.00 in benefits; none of the benefits were based on a COVID supplement.

5. After the Department calculated the FAP budget by adding previously unreported UCB income into the FAP budget during the FAP benefit overissuance month, the Department determined that petitioner was eligible for \$0.00 in benefits for the month of May 2020. Department Exhibit A.3.
6. On June 29, 2020, Petitioner filed a 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.

Individuals alleging eligibility for welfare benefits have the burden of proof by a preponderance of evidence standard. However, the Department has the initial burden of going forward to present sufficient evidence to support the action taken regarding the facts in dispute.

In this case, as an initial clarification Petitioner questioned the Department recouping lunches during the COVID crises. However, evidence presented by the Department indicates that there was no overissuance or proposed recoupment of the SNAP program lunch benefits.

Regarding the overissuance and proposed recoupment of FAP benefits during the month of May 2020, Petitioner argued that the Department does not have the right to recoup COVID 19 supplemental FAP benefits. The Department responded that none of Petitioner's \$355.00 benefits were due to a COVID 19 supplement. Petitioner was issued \$355.00 in May 2020 based on the information Petitioner provided to the Department, albeit incorrect. Petitioner was eligible for \$355.00 in May 2020 FAP benefits based on the FAP budget calculating eligibility without adding in UCB income. Thus, none of the \$355.00 benefits were due to COVID 19.

Petitioner then argued that were it not for the error, Petitioner would be eligible for less benefits and thus would be eligible for supplemental COVID benefits. However, the Department evidence shows that Petitioner would have been eligible for \$0.00 May 2020 benefits after adding the previously unreported UCB benefits. Federal and state law did not allow any COVID 19 supplemental FAP benefits unless a group was already eligible for some FAP benefits. Here, Petitioner was eligible for \$0.00 and thus, would not have

received a supplemental benefit. Moreover, supplemental benefits were paid for March and April 2020; not May 2020.

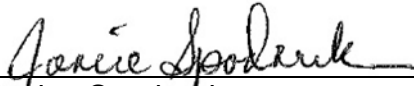
Last, Petitioner argued that the error was agency error and not client error, claiming that she faxed a report when she began receiving UCB. First, under BAM 700, p. 5, the Department is required to recoup any overissuance above \$250.00 whether due to client or agency error. In addition, Petitioner had no evidence of having faxed the purported document(s). Petitioner's claim is not consistent with her failure to report the income on the written application, as well as the FAP interview with the Department, where she also failed to disclose the household UCB income. Based on the evidence of record, Petitioner did not meet her burden of proof and thus, the Department's action must be upheld. In addition, it is noted that whether client or Department error, under

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 issued an overissuance and recoupment notice to Petitioner for May, 2020.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

JS/ml



Janice Spodarek
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

Joan King
Delta County DHHS – via electronic mail

L. Bengel – via electronic mail

MDHHS OIG – via electronic mail

DHHS Department Rep.

MDHHS-Recoupment – via electronic mail

Petitioner

[REDACTED] – via first class mail
[REDACTED], MI [REDACTED]