



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: October 7, 2020
MOAHR Docket No.: 20-005561
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 September 30, 2020. Petitioner, [REDACTED] appeared on his own behalf. The Department was represented by Dawn McKay, Recoupment Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-43.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received Food Assistance Program (FAP) benefits that he was not eligible for and that must be recouped by the Department?

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 was an ongoing FAP recipient on August 5, 2019, when the Department received his Redetermination (DHS-1010) form. (Exhibit A, pp. 5-12)
2. During an August 13, 2019, interview for the Redetermination, Petitioner reported he had an orientation at [REDACTED] that Saturday but did not know the expected hours or wage. It was discussed that Petitioner needed to turn in verifications upon receiving the first pay. (Exhibit A, pp. 5 and 9)
3. Petitioner was employed by [REDACTED] from [REDACTED] 2019, through [REDACTED] 2020. Petitioner received his first pay from [REDACTED] on [REDACTED] 2019. (Exhibit A, pp. 13-14)

4. Petitioner received FAP benefits of ██████ per month from ██████ 2019, through ██████ 2020, totaling ██████ (Exhibit A, pp. 15-16 and 37)
5. The Department determined that Petitioner was only eligible for \$48.00 of FAP benefits from October 1, 2019, through July 31, 2020. (Exhibit A, pp. 17-37)
6. On August 7, 2020, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing him that a \$1,892.00 overissuance of FAP benefits would be recouped. (Exhibit A, pp. 38-43)
7. On August 17, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 3-4)

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

Pursuant to BAM 105, clients have a responsibility to cooperate with the Department in determining initial and ongoing eligibility. BAM 105, January 1, 2019, p. 9. Clients are responsible for reporting any changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. This includes changes with earned income, such as starting and stopping employment, changes with rate of pay, and changes in work hours of more than five hours per week that is expected to continue for more than one month. BAM 105, January 1, 2019, p. 12. Clients are also responsible for taking actions within their ability to obtain verifications. BAM 105, January 1, 2019, p. 14.

For FAP, the Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. 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, April 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. BAM 700, October 1, 2018, p. 1.

Petitioner was an ongoing FAP recipient on August 5, 2019, when the Department received his Redetermination (DHS-1010) form. (Exhibit A, pp. 5-12)

During an August 13, 2019, interview for the Redetermination, Petitioner reported he had an orientation at [REDACTED] that Saturday but did not know the expected hours or wage. It was discussed that Petitioner needed to turn in verifications upon receiving the first pay. (Exhibit A, pp. 5 and 9) Petitioner was employed by [REDACTED] from [REDACTED] 2019, through [REDACTED] 2020. Petitioner received his first pay from [REDACTED] on [REDACTED] 2019. (Exhibit A, pp. 13-14) If Petitioner had timely reported this increased income, the Department would have redetermined FAP eligibility by [REDACTED] 2020.

The Department asserts that Petitioner did not report the first pay and provide verifications until the yearly review in [REDACTED] 2020. (Exhibit A, p. 2; Recoupment Specialist Testimony) Petitioner received FAP benefits of [REDACTED] per month from [REDACTED] 2019, through [REDACTED] 2020, totaling [REDACTED] (Exhibit A, pp. 15-16 and 37) The Department determined that Petitioner was only eligible for [REDACTED] of FAP benefits from [REDACTED] 2019, through [REDACTED] 2020. (Exhibit A, pp. 17-37) Therefore, Petitioner received a [REDACTED] overissuance of FAP benefits.

Petitioner asserts that when he started his job at [REDACTED] he took a picture of his first pay and uploaded it to the Department's system. Petitioner also asserted that he dropped off some things at the local Department office. (Exhibit A, p. 4; Petitioner Testimony) The Recoupment Specialist testified that the system does not show that Petitioner uploaded verification of his first pay at that time. Rather, a picture was added at the time of his most recent Redetermination. Petitioner's case record does not show that anything, such as verifications, change reports, or applications, were submitted at all during the time period from when Petitioner started working at [REDACTED] until this most recent Redetermination. (Recoupment Specialist Testimony) Petitioner's testimony indicated he sometimes has problems with the online stuff. Further, the specific verifications Petitioner referenced submitting were submitted in [REDACTED] 2020, for the recent redetermination. (Petitioner and Recoupment Specialist Testimony) Petitioner explained that this was not intentional and more recently, he has been very careful with what he is doing and made sure to stay in touch with the Department worker. (Petitioner Testimony)

The failure to timely report and verify the details of the employment at [REDACTED] with the first pay on [REDACTED] 2019, resulted in a [REDACTED] overissuance of FAP benefits from [REDACTED] 2019, through [REDACTED] 2020.

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 \$1,892.00 overissuance of FAP benefits that must be recouped.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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 Department Rep.

MDHHS-Recoupment – via electronic mail

MDHHS OIG – via electronic mail

L. Bengel – via electronic mail

DHHS

Pamela Wells
Mason County DHHS – via electronic mail

Petitioner

██████████ – via first class mail
██████████
██████████, MI ██████████