



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: January 21, 2021
MOAHR Docket No.: 20-007733
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, a telephone hearing was held on January 28, 2021. Petitioner represented himself. The Department was represented by Jennifer Braxmaier.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner had 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 [REDACTED] 2019, the Department received Petitioner's application for assistance where he acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits. Exhibit A, pp 4-15.
2. During an eligibility interview on June 11, 2019, Petitioner reported that he received his last paycheck on May 31, 2019, after being laid off from his employment. Exhibit A, p 16.
3. On June 17, 2019, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a household of one not receiving any income. Exhibit A, p 18.
4. On August 9, 2019, the Department notified Petitioner that he was eligible for cash assistance. Exhibit A, p 24.

5. On December 5, 2019, the Department received verification that Petitioner had been granted unemployment compensation benefits. Exhibit A, p 32.
6. Petitioner received unemployment compensation benefits from November 2, 2019, through March 7, 2020. Exhibit A, pp 35-36.
7. Petitioner received Food Assistance Program (FAP) benefits totaling \$582 from January 1, 2020, through March 31, 2020, which is the maximum amount of benefits that a household of one could have received in that time period. Exhibit A, p 40.
8. On October 27, 2020, the Department sent him a Notice of Overissuance instructing him that a \$493 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, p 48.
9. On [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing. Exhibit A, pp 54-55.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

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.

On [REDACTED] 2019, the Department received Petitioner's application for assistance. Petitioner acknowledged the duties and responsibilities of receiving FAP benefits including the duty to reimburse the Department for an overissuance of benefits. On June 17, 2019, the Department notified Petitioner that he was eligible for FAP benefits as a household of one not receiving any income.

On August 9, 2019, the Department received verification that Petitioner had applied for, and would receive unemployment compensation benefits. Petitioner received unemployment compensation benefits from November 2, 2019, through March 7, 2020.

Due to Department error, Petitioner's eligibility for ongoing FAP benefits was not redetermined after he reported that he would be receiving unemployment benefits. If the Department had properly acted upon receiving notification of Petitioner's unemployment benefits, then his eligibility for ongoing FAP benefits would have been redetermined no later than January 1, 2020.

Petitioner received FAP benefits totaling \$482 from January 1, 2020, through March 31, 2020. These benefits are consistent with a household of one receiving a net monthly income of \$[REDACTED]. If the Department had properly accounted for Petitioner's unemployment benefits, then Petitioner would have been eligible for only \$89 of the FAP benefits that he received. Therefore, Petitioner received a \$493 overissuance of FAP benefits.

Petitioner testified that he reported his circumstances to the Department in a timely manner and that it is unfair that he is responsible to repay benefits caused by the Department's error.

However, Administrative Law Judges have no authority to make exceptions to the department policy set out in the program manuals. The hearing records supports a finding that Petitioner received FAP benefit that he was not eligible for, and the Department is required to recoup those benefits. 7 CFR 273.18.

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 \$582 overissuance of Food Assistance Program (FAP) benefits during the period of January 1, 2020, through March 31, 2020, that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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

Traci Croff
40 Care Drive
Hillsdale, MI
49242

Hillsdale County DHHS- via electronic
mail

OIG Hearings- via electronic mail

MDHHS- Recoupment- via electronic mail

L. Bengel- via electronic mail

Petitioner

 via first class mail
, MI