



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 5, 2019
MAHS Docket No.: 19-000908
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 4, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Aundrea Jones, Hearing Facilitator, and Walita Randle, Recoupment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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 for the period of May 1, 2017 through January 31, 2018 (Exhibit E).
2. In March 2017, Petitioner obtained employment.
3. Petitioner had income from employment during the period of May 1, 2017 through January 31, 2018 (Exhibit H).
4. On January 9, 2019, the Department sent Petitioner a Notice of Overissuance stating Petitioner had been overissued FAP benefits in the amount of \$ [REDACTED] during the period of May 1, 2017 through January 31, 2018 (Exhibit A).

5. On January 29, 2019, Petitioner submitted a request for hearing disputing the Department's actions (Exhibit A).

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.

In this case, Petitioner obtained new employment in March 2017. 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 May 1, 2017 through January 31, 2018 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 May 1, 2017 through January 31, 2018 (Exhibit F). 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 Petitioner's employer and used it to calculate her actual income during the overissuance period (Exhibit H). The Department also presented Petitioner's FAP Benefit Summary Inquiry (Exhibit E). The Benefit Summary Inquiry shows Petitioner

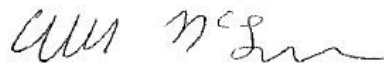
was issued FAP benefits in the amount of \$ [REDACTED] per month for the period of April 1, 2017 through September 30, 2017, and \$ [REDACTED] per month for the period of October 1, 2017 through January 31, 2018.

Petitioner testified that she believed she had reported the earned income. Petitioner could not state with certainty as to what timeframe or method she used to report the income. In support of its argument that Petitioner failed to report the income, the Department presented Petitioner's case file notes (Exhibit C). The Department highlighted that there was never any notation made that Petitioner had reported the employment. The Department also testified that Petitioner's Electronic Case File (ECF) was reviewed and there was no documentation submitted by Petitioner noting the change of employment or verifying her income.

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 \$ [REDACTED] for the period of May 1, 2017 through January 31, 2018.

DECISION AND ORDER

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 Petitioner was overissued FAP benefits in the amount of \$ [REDACTED] during the period of May 1, 2017 through January 31, 2018. Accordingly, the Department's decision is **AFFIRMED**.



EM/jaf

Ellen McLemore

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 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

DHHS

Jeanenne Broadnax
MDHHS-Wayne-18-Hearings

DHHS Department Rep.

MDHHS-Recoupment

Petitioner

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