



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR



Date Mailed: March 27, 2019
MAHS Docket No.: 19-001623
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, telephone hearing was held on March 21, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Swanzetta Wilson, Recoupment Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner 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 January 2, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits where she reported that no one in her household was employed, but that one person was receiving employment compensation benefits. Exhibit A, pp 8-46.
2. On January 9, 2017, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits based on \$0 earned income and \$1,556 of unearned income. Exhibit A, pp 47-53.
3. On April 24, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits where she reported that a member of her household was employed at a rate of \$22 per hour and expected to work 40

hours per week. Unemployment compensation benefits were not listed on the application form. Exhibit A, pp 54-97.

4. On September 9, 2017, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits based on \$0 earned income and \$1,556 unearned income. Exhibit A, pp 98-101.
5. From June 1, 2017, through November 30, 2017, Petitioner received Food Assistance Program (FAP) benefits totaling \$4,196. Exhibit A, pp 152-153.
6. On December 19, 2017, the Department issued Petitioner's supplemental Food Assistance Program (FAP) benefits for the period of June 1, 2017, through November 30, 2017. Exhibit A, pp 152-153.
7. On April 19, 2018, the Department received a Verification of Employment (DHS-38) verifying employment by a member of Petitioner's household that began on April 3, 2017. Exhibit A, pp 103-104.
8. A member of Petitioner's household received earned income from April 12, 2017, through November 22, 2017. The actual gross monthly income received was \$2,660 in April, \$4,889.50 in May, \$4,498 in June, \$3,585.50 in July, \$6,182 in August, \$3,066.38 in September, \$3,338.08 in October, and \$4,312 in November. Exhibit A, pp 106-122.
9. The gross monthly income limit for a group of six was \$3,530 from April 1, 2017, through September 30, 2017, and \$3,571 from October 1, 2017, through November 30, 2017. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2016, and October 1, 2017), p 1.
10. On January 16, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that a \$3,872 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 167-171.
11. On January 29, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

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.

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.

A recipient claim is an amount owed because benefits that are overpaid. The Department is required to establish and collect a recipient claim. 7 CFR 273.18 (a).

Petitioner applied for FAP benefits on January 2, 2017, and reported that no one in her household was employed. On April 24, 2017, the Department received another application for FAP benefits where Petitioner reported that a member of her household had started new employment. Due to Department error, the earned income that Petitioner reported to the Department was not applied towards her eligibility for FAP benefits. On September 9, 2017, the Department notified Petitioner that she remained eligible for FAP benefits based on \$0 earned income being received within the household. On December 19, 2017, the Department issued supplemental FAP benefits to Petitioner. It appears that ending unemployment compensation benefits were not removed from the budget, and the supplement was issued after it was discovered that those benefits had ended.

If the Department had properly processed the April 24, 2017, application form where Petitioner reported earned income being received within the household, the Department would have redetermined Petitioner's eligibility for FAP benefits no later than the first benefit period after May 16, 2017.

Petitioner received FAP benefits totaling \$4,196 from June 1, 2017, through November 30, 2017. The gross monthly earned income in each month from June 1, 2017, through November 30, 2017, exceeded 130% of the federal poverty level for a group of six. Gross monthly earned income in each month was determined by totaling the gross bi-weekly paychecks received in each month. A household receiving income exceeding the gross monthly income limit is not eligible for any FAP benefits.

As a result of the Department's failure to properly apply the income received by Petitioner's household, Petitioner received FAP benefits that she was not eligible for. Therefore, Petitioner received an overissuance of FAP benefits that must be recouped.

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 an overissuance of FAP benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dh



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 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 Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
Lansing, MI 48909

DHHS

Tara Roland 82-17
8655 Greenfield
Detroit, MI 48228

Wayne County (District 17), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

