



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: May 24, 2019
MOAHR Docket No.: 19-003788
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 May 15, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Bernice Ray.

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 [REDACTED] 2015, the Department received Petitioner's Assistance Application where she acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits. Exhibit A, pp 2-23.
2. On February 15, 2017, the Department received Petitioner's Redetermination (DHS-1010). Exhibit A, pp 27-34.
3. Petitioner started employment on August 20, 2018, and received earned income from August 29, 2018, through February 13, 2019. Exhibit A, pp 45-47.
4. On September 14, 2018, the Department received verification of Petitioner's earned income. Exhibit A, pp 48-49.

5. Petitioner received Food Assistance Program (FAP) benefits totaling \$370 from November 1, 2018, through February 28, 2019. Exhibit A, p 35.
6. Due to Department error, the Department did not apply Petitioner's earned income towards her eligibility for Food Assistance Program (FAP) benefits.
7. On April 5, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$310 overissuance of Food Assistance Program (FAP) benefits due to Department error. Exhibit A, pp 54-58.
8. On April 9, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.

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.

The Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (January 1, 2018), p 7. A pending 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, p 12.

Petitioner was an ongoing FAP recipient on September 14, 2018, when she sent the Department copies of her paycheck stubs showing that she had started new employment. Due to Department error, this new source of income was not applied towards her eligibility for FAP benefits. If the Department had properly applied the verified earned income to Petitioner's case, her eligibility for ongoing FAP benefits would have been redetermined by the first benefit period after October 6, 2018.

Petitioner received FAP benefits totaling \$370 from November 1, 2018, through February 28, 2019. If the Department had properly considered Petitioner's earned income during that period, she would have been eligible for only \$60 of those FAP benefits. Therefore, Petitioner received a \$310 overissuance of FAP benefits.

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 \$310 overissuance of Food Assistance Program (FAP) benefits due to Department error that must be recouped in accordance with policy.

DECISION AND ORDER

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

KS/hb



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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Cindy Tomczak
401 Eighth Street
PO Box 1407
Benton Harbor, MI 49023

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
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Berrien County (District 22), DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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