



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: June 4, 2019  
MOAHR Docket No.: 19-004397  
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 May 28, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Toni Grimes.

### **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], 2018, the Department received Petitioner's Assistance Application as a group of one indicating her acknowledgement of the duties and responsibilities of receiving Food Assistance Program (FAP) benefits. Exhibit A, pp 5-19.
2. On January 29, 2018, the Department notified Petitioner that she was approved for Food Assistance Program (FAP) benefits based on no income. Exhibit A, pp 20-34.
3. On January 29, 2018, the Department received copies of two paycheck stubs showing that Petitioner was receiving earned income. Exhibit A, pp 24-25.
4. On February 20, 2018, the Department received copies of two paycheck stubs showing that Petitioner was receiving earned income. Exhibit A, pp 26-27.

5. On July 12, 2018, Petitioner reported to the Department that she continued to be employed, and that she had started additional employment. Exhibit A, p 29.
6. On November 29, 2018, the Department received Petitioner's Renew Benefits worksheet where she reported being employed by two businesses. Exhibit A, pp 30-34.
7. On January 18, 2019, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits based on gross monthly earnings of \$1,603. Exhibit A, pp 35-38.
8. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,130 from January 1, 2018, through December 31, 2018. Exhibit A, pp 64-65.
9. The maximum monthly allotment of Food Assistance Program (FAP) benefits a group of one could receive from January 1, 2018, through December 31, 2018, was \$192. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2017, and October 1, 2018), p 1.
10. Due to Department error, Petitioner's earned income was not applied towards her eligibility for Food Assistance Program (FAP) benefits from January 1, 2018, through December 31, 2018. Exhibit A, pp 39-62.
11. On May 3, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 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) [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 (January 1, 2018), p 1.

The Department received Petitioner's application for FAP benefits, and she acknowledged the duties and responsibilities of receiving those benefits. Petitioner


reported to the Department that she was employed and receiving earned income as required, but due to Department error, this income was not applied to Petitioner's eligibility for ongoing FAP benefits. Petitioner received the maximum amount of FAP benefits available for a group of one from January 1, 2018, through December 31, 2018. If Petitioner's income had been properly applied towards her eligibility for FAP benefits, she would have been eligible for only \$676 of those FAP benefits. Therefore, Petitioner received a \$1,454 overissuance of FAP benefits due to Department error.

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 Food Assistance Program (FAP) benefits that she was not eligible for due to the Department error, and that the Department is required to recoup those overissued benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh

  
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**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**

Barbara Schram - 4  
711 West Chisholm St.  
Alpena, MI 49707

Alpena County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

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**Petitioner**

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