



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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

Date Mailed: September 4, 2019  
MOAHR Docket No.: 19-008157  
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 August 29, 2019, from Lansing, Michigan. Petitioner represented herself and [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by Dawn McKay.

**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. Petitioner was an ongoing Food Assistance Program (FAP) recipient on July 27, 2018, when the Department received her Redetermination (DHS-1010) where she reported receiving social security benefits and earned income. Exhibit A, pp 5-12.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,325. Exhibit A, pp 14-16.
3. Petitioner receives monthly earned income in the gross monthly amount of \$266.40 in December of 2018, \$346.32 in January of 2019, \$319.58 in February of 2019, \$546.12 in March of 2019, \$745.92 in April of 2019, \$532.84 in May of 2019, \$1,118.03 in June of 2019, and \$307.36 in July of 2019. Exhibit A, p 17.

4. Petitioner received Food Assistance Program (FAP) benefits totaling \$1,536 from December 1, 2018, through July 31, 2019. Exhibit A, p 13.
5. On July 17, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that the Department would recoup \$1,446 of Food Assistance Program (FAP) benefits. Exhibit A, pp 40-45.
6. On July 30, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

### **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 (October 1, 2018), p 1.

Petitioner was an ongoing FAP recipient from December 1, 2018, through July 31, 2018, and she received a \$192 allotment of benefits in each of those months. This is the maximum amount of FAP benefits available for a group of one and corresponds to a net monthly income of \$0. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 1.

On July 27, 2018, the Department received Petitioner's Redetermination (DHS-1010) form where she reported receiving earned income and social security benefits.

In July, Petitioner received earned income in the gross monthly amount of \$266, which is the total of the paychecks she received in that month. Petitioner also received RSDI benefits in the gross monthly amount of \$1,325. Petitioner's adjusted gross income of \$1,280 was determined by reducing her earned income by the 20% earned income deduction, a \$99 deduction for medical expenses, and the \$158 standard deduction. The medical deduction was determined by reducing her \$134 Medicare Part B premium by \$35 as directed by policy in Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

Petitioner had a \$667 housing expenses obligation and she paid for heating expenses separately from housing expenses, which entitled her to the flat \$543 heat and utility deduction. Petitioner's \$571 excess shelter deduction was determined by reducing her total shelter expenses by 50% of her adjusted gross income.

Petitioner's net income of \$709 was determined by reducing her adjusted gross income by her shelter deduction. A group of one with a \$709 net income is entitled to a \$15 monthly allotment of FAP benefits. RFT 260, p 10.

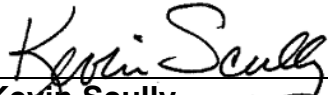
However, Petitioner received a \$192 monthly allotment of FAP benefits. Therefore, Petitioner received FAP benefits she was not eligible for. Petitioner continued to receive FAP benefits she was not eligible for through July 31, 2019. Petitioner received FAP benefits totaling \$1,446 of FAP benefits she was not eligible to receive from December 1, 2018, through July 31, 2019.

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 \$1,446 overissuance of Food Assistance Program (FAP) benefits due to Department error that must be recouped by the Department.

#### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

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

**DHHS**

Eileen Asam  
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**DHHS Department Rep.**

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BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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