



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: October 11, 2019
MOAHR Docket No.: 19-009823
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 9, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Alisha Young, Recoupment Specialist, appear on its behalf. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 67-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Does Petitioner owe the Department a debt of \$1,561.00 for Food Assistance Program (FAP) benefits that were overissued to Petitioner from June 2016 through October 2016?

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 a FAP recipient.
2. On October 20, 2015, the Department issued a notice of case action to Petitioner to notify her that she was approved for FAP benefits in the amount of \$357.00 per month from November 1, 2015, through October 31, 2016, based on a reported income of \$ [REDACTED]
3. In April 2016, Petitioner obtained employment at [REDACTED]

4. The Department continued to issue FAP benefits to Petitioner after she obtained employment, and the Department did not budget Petitioner's income from employment.
5. The Department issued Petitioner a FAP benefit of \$357.00 per month from June 2016 through October 2016.
6. The Department received an alert that Petitioner had unreported employment while she was receiving FAP benefits.
7. On October 27, 2016, the Department mailed a wage match client notice to Petitioner with instructions for Petitioner to have [REDACTED] complete the form and return it to the Department. Petitioner did not respond to the Department's wage match client notice.
8. On June 28, 2019, the Department mailed a letter to [REDACTED] to obtain Petitioner's earnings records. The letter was returned as undeliverable.
9. The Department reviewed [REDACTED] quarterly wage reports to obtain Petitioner's earnings records. [REDACTED] reported that Petitioner had the following quarterly earnings: \$ [REDACTED] in the second quarter of 2016, \$ [REDACTED] in the third quarter of 2016, and \$ [REDACTED] in the fourth quarter of 2016. The Department divided each quarter's wages by three to get Petitioner's monthly earnings.
10. The Department determined that Petitioner was overissued FAP benefits in the total amount of \$1,561.00 from June 2016 through October 2016 due to unreported income.
11. On August 19, 2019, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued FAP benefits in the total amount of \$1,561.00 from June 2016 through October 2016 due to unreported income.
12. On August 29, 2019, Petitioner filed a hearing request to dispute the overissuance.

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) 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 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 receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at p. 2. In this case, the Department issued Petitioner more FAP benefits than what she was eligible to receive because the Department issued Petitioner FAP benefits based on an income of \$[REDACTED] when Petitioner had a greater income which reduced the FAP benefit she was eligible to receive. The Department presented sufficient evidence to establish that the total amount overissued was \$1,561.00.

Petitioner testified that she was not overissued FAP benefits because she reported her employment at [REDACTED] and did not receive any FAP benefits after she reported her employment. If Petitioner did not use the FAP benefits that were issued to her from June 2016 through October 2016, then the overissuance will essentially be a moot issue because the Department will be able to recoup the overissuance amount from Petitioner's unused balance. Petitioner may request a history of her EBT usage from the Department for the relevant time period to verify whether she used the FAP benefits or not. If Petitioner used the FAP benefits that were issued from June 2016 through October 2016, then the overissuance amount will have to be repaid to the Department because Petitioner was not eligible to receive the benefits that were overissued.

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 did act in accordance with its policies and the applicable law when it issued its recoupment notice on August 19, 2019, for an overissuance of FAP benefits totaling \$1,561.00.

IT IS ORDERED that the Department may initiate recoupment procedures to collect the \$1,561.00 debt Respondent owes the Department for the FAP benefits she was overissued.

JK/ml



Jeffrey Kemm
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

Holly DeGroat
515 South Sandusky
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48471

Sanilac 76 County DHHS – Via Electronic
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DHHS Department Rep.

MDHHS-Recoupment – Via Electronic
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Petitioner

 – Via First Class Mail
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