



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: November 26, 2019
MOAHR Docket No.: 19-011570
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 21, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Julie Cylla, Family Independence Manager; Deverette Maxes, Eligibility Specialist; and Swanzetta Wilson, Recoupment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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 recipient of Food Assistance Program (FAP) benefits during the period of ██████████ 2019 through ██████████ 2019 (Exhibit A, p. 51).
2. On ██████████ 2019, the Department received a New Hire Match related to Petitioner (Exhibit A, p. 18).
3. On ██████████ 2019, the Department acted on the New Hire Match by requesting income verification from Petitioner (Exhibit A, p. 18).
4. Petitioner had income from employment during the period of ██████████, 2019 through ██████████, 2019 (Exhibit A, pp. 39-50).

5. On [REDACTED], 2019, the Department sent Petitioner a Notice of Overissuance informing her that she was overissued FAP benefits in the amount of \$[REDACTED] during the period of [REDACTED] 2019 through [REDACTED] 2019 (Exhibit A, pp. 6-7).
6. On [REDACTED], 2019, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner began employment at [REDACTED] on February 4, 2019 (Exhibit A, p. 40). On [REDACTED], 2019, the Department received a State New Hire Match indicating Petitioner had obtained new employment.

The State New Hires Match is a daily data exchange of information collected by the Michigan New Hire Operations Center and obtained through the Office of Child Support. BAM 807 (October 2018), p. 1. State New Hires information is used to determine current income sources for active clients. BAM 807, p. 1. When the Department receives a New Hire Match, it will request verification from the client by sending a DHS-4635 New Hire Client Notice. BAM 807 (April 2017), p. 1. Per policy, it is a best practice to resolve information obtained from a State New Hires report within 21 calendar days from the date the match is reported to the specialist.

Despite receiving the State New Hire Match on [REDACTED], 2019, the Department did not initially act on the information by requesting verification of income from Petitioner. The error was discovered during a Quality Control Review (Exhibit A, pp. 6-29). On [REDACTED] 2019, the Department acted on the State New Hire Match by requesting income verification from Petitioner. The Department received a Verification of Employment from [REDACTED] on [REDACTED], 2019 (Exhibit A, pp. 39-50). The Department testified that best practices set forth by policy were not properly followed when the Department failed to timely act on the State New Hire Match. As a result, income verification was not timely requested of Petitioner, and the earned income was not

included in Petitioner's FAP budget. The Department determined Petitioner was overissued FAP benefits as a result of agency error.

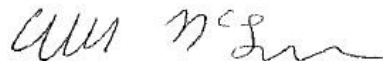
When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8.

The Department presented the Quality Control Review showing the Department failed to timely act on the State New Hire Match. Included in the report was Petitioner's FAP budget for the overissuance period showing that \$█ in earned income was budgeted. The Department also presented a Verification of Employment showing Petitioner had earned income during the period of █ 2019 through █, 2019. Therefore, the Department correctly determined that Petitioner was overissued FAP benefits as a result of agency error.

The Department presented Petitioner's Benefit Summary, which showed she was issued \$█ in FAP benefits for the period of █ 2019 through █, 2019. The Department presented overissuance budgets for the same time period (Exhibit A, pp. 52-62). The Department recalculated Petitioner's FAP benefits by adding in the earned income from the Employment Verification. The budgets show that for the period of █, 2019 through █, 2019, Petitioner should have only received \$█ in FAP benefits. Therefore, the Department established it properly determined Petitioner was overissued FAP benefits in the amount of \$█.

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 acted in accordance with Department policy when it determined Petitioner received an overissuance of FAP benefits in the amount of \$█. Accordingly, the Department's decision is **AFFIRMED**.



EM/tm

Ellen McLemore

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

LaClair Winbush
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48227

DHHS Department Rep.

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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
AP Specialist-Wayne County