



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: December 3, 2019
MOAHR Docket No.: 19-011773
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 November 27, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Minnie Egbuonu.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner had 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 May 13, 2016, the Department received Petitioner's Semi-Annual Contact Report (DHS-1046) where she reported that her earnings had not changed by more than \$100 from the \$1,613 previously applied towards her eligibility for benefits but that a job had started or stopped. Exhibit A, pp 12-13.
2. On May 24, 2016, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits based on earned income in the gross monthly amount of \$1,613. Exhibit A, pp 14-18.
3. On June 10, 2016, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits based no household income. Exhibit A, pp 63-67.

4. Petitioner failed to report that she had changed employers and when she received earned income from June 24, 2016, through October 11, 2019, more than \$100 greater than \$1,613. Exhibit A, pp 8-10.
5. Petitioner was a Food Assistance Program (FAP) recipient from September 1, 2016, through December 31, 2016. Exhibit A, p 23.
6. On August 3, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits where she reported that she had been employed since June 16, 2016. Exhibit A, pp 39-62.
7. Petitioner received Food Assistance Program (FAP) benefits totaling \$4,536 from October 1, 2018, through September 30, 2019. Exhibit A, pp 78-79.
8. On October 21, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$1,380 overissuance of Food Assistance Program (FAP) benefits during the period of September 1, 2016, through December 31, 2016. Exhibit A, pp 33-38.
9. On October 21, 2019, the Department sent Petitioner another Notice of Overissuance (DHS-4358-A) instructing her that she had received a \$4,536 overissuance of Food Assistance Program (FAP) benefits during the period of October 1, 2018, through September 30, 2019. Exhibit A, pp 105-110.
10. On October 29, 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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit.

Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include changes of employment status and increases of income. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2019), pp 1-20.

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 on May 13, 2016, when the Department received her Semi-Annual Contact Report. Petitioner reported to the Department that her earnings had not changed by more than \$100 from the \$1,613 previously applied towards her eligibility for FAP benefits.

Respondent failed to report that she had changed employers and that her gross monthly income from her new employer was more than \$100 more than \$1,613, and her income also exceeded the simplified reporting limit in several months. On June 10, 2016, the Department notified Petitioner that she was eligible for ongoing FAP benefits based on no income being received in the household.

Respondent received FAP benefits totaling \$1,428 from September 1, 2016, through December 31, 2016. If Respondent had reported her earned income in a timely manner, then she would have been eligible for only \$48 of those benefits. Therefore, Petitioner received a \$1,380 overissuance of FAP benefits. No evidence was presented on the record that Respondent reported the amount of income she was receiving, and the overissuance was caused by her failure to report a change of circumstances.

On August 3, 2017, the Department received Petitioner's application for FAP benefits. Petitioner reported on her application form that she had been employed since June 16, 2016. Due to Department error, Petitioner's ongoing earned income was classified as "income in kind", and not earned income.

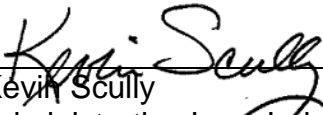
Petitioner received FAP benefits totaling \$4,536 from October 1, 2018, through September 30, 2019. Petitioner would not have been eligible for any of those FAP benefits if the Department had not misclassified her income. Therefore, Petitioner received a \$4,536 overissuance of FAP benefits due to Department 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 a \$1,380 overissuance of Food Assistance Program (FAP) benefits due to client error from September 1, 2016, through December 31, 2016, and a \$4,536 overissuance of Food Assistance Program (FAP) benefits due to Department error from October 1, 2018, through September 30, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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

LaClair Winbush
17455 Grand River
Detroit, MI
48227

Wayne 31 County DHHS- via electronic
mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
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48909

Petitioner

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