



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: February 6, 2020  
MOAHR Docket No.: 19-013551  
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. The hearing was consolidated with Michigan Office of Administrative Hearing System (MOAHR) Docket No. 19-013554 without objection. After due notice, a telephone hearing was held on January 29, 2020, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Service was represented by Jason Morris.

### **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 [REDACTED], 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a household of four. MOAHR Docket No. 19-013551, Exhibit A, pp 65-108.
2. Petitioner reported on her [REDACTED] 2017, application form that no one in her household was employed. MOAHR Docket No. 19-013551, Exhibit A, p 80.
3. On September 14, 2017, the Department notified Petitioner that she was eligible for a \$640 monthly allotment of Food Assistance Program (FAP) benefits as a group of four receiving no earned income from employment and \$798 of unearned income. MOAHR Docket No. 19-013551, Exhibit A, pp 111-116.

4. On December 30, 2017, the Department notified Petitioner that she was eligible for a \$640 monthly allotment of Food Assistance Program (FAP) benefits as a group of four receiving no earned income and \$798 of unearned income. MOAHR Docket No. 19-013551, Exhibit A, pp 117-120.
5. Petitioner received unemployment compensation benefits from August 12, 2017, through December 30, 2017. MOAHR Docket No. 19-013551, Exhibit A, pp 24-25.
6. Petitioner was employed and received earned income from employment from February 6, 2018, through July 24, 2018. MOAHR Docket No. 19-013551, Exhibit A, p 18.
7. Petitioner was employed and received earned income from employment from August 7, 2019, through August 20, 2019. Petitioner Hearing Request.
8. Petitioner received child support for each of her three children from April 1, 2018, through July 31, 2018. MOAHR Docket No. 19-013551, Exhibit A, pp 46-48 and 54-56.
9. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,560 from April 1, 2018, through July 31, 2018. MOAHR Docket No. 19-013551, Exhibit A, p 5.
10. Petitioner received Food Assistance Program (FAP) benefits in February of 2018, as a group of four with a net income of \$0 based on no earned income being received in the household. MOAHR Docket No. 19-013551, Exhibit A, p 38-39.
11. On July 25, 2018, the Department received Petitioner's Redetermination (DHS-1010) form where she reported being employed since January of 2018. MOAHR Docket No. 19-013551, Exhibit A, pp 57-64.
12. On July 30, 2018, the Department notified Petitioner that she was eligible for a \$88 monthly allotment of Food Assistance Program (FAP) benefits as a group of four receiving earned income in the gross monthly amount of \$2,215 and \$882 of unearned income. MOAHR Docket No. 19-013551, Exhibit A, pp 127-131.
13. On July 30, 2018, Petitioner's Food Assistance Program (FAP) benefits case was referred to investigation into a possible overissuance of benefits due to unreported income. MOAHR Docket No. 19-013551, Exhibit A, p 2.
14. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,306 from August 1, 2018, through July 31, 2019. MOAHR Docket No 19-013554, Exhibit A, pp 4-5.
15. On October 30, 2018, the Department received verification of employment and earned income received from October 16, 2018, through October 30, 2018. MOAHR Docket No 19-013554, Exhibit A, pp 32-34.

16. On November 22, 2019, an Overpayment Packet (DHS-1372) was generated describing an overissuance of Food Assistance Program (FAP) benefits received from August 1, 2018, through July 31, 2019. MOAHR Docket No 19-013554, Exhibit A, p 1.
17. On November 27, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that she had received a \$2,560 overissuance of Food Assistance Program (FAP) benefits during the period of April 1, 2018, through July 31, 2018, due to client error under the Claim number 100007484523.
18. On November 27, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that she had received a \$2,234 overissuance of Food Assistance Program (FAP) benefits during the period of August 1, 2018, through July 31, 2019, due to Department error under the Claim number 100007484532.
19. On December 13, 2019, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Petitioner's Hearing Request.

### **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.

A recipient claim is an amount owed because of benefits that are overpaid, and State agencies are required to collect any claim from each person who was an adult member of the household when the overpayment occurred. 7 CFR 273.18(a).

On [REDACTED], 2017, the Department received Petitioner's application for FAP benefits as a household of four eligible group members. At that time, Petitioner reported that she was not employed but was supporting her family with child support and unemployment.

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 earned income. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2019), pp 1-20.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (October 1, 2019), p 12. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (January 1, 2018), p 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

No evidence was presented on the record that Petitioner reported when she started employment or that she was receiving countable earned income from February 6, 2018, through July 24, 2018. If Petitioner had reported her first paycheck in a timely manner, then the Department would have redetermined Petitioner's eligibility for ongoing FAP benefits by the first benefit period after March 10, 2018. Respondent received FAP benefits totaling \$2,560 from April 1, 2018, through July 31, 2018.

A FAP recipient that does not report the receipt of earned income in a timely manner is not entitled to the 20% earned income deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (January 1, 2020), p 3.

The monthly gross income limit for a group of four in August of 2018 was \$2,665. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2018), p 1.

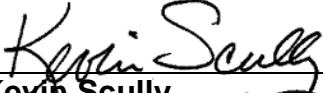
From April 1, 2018, through July 31, 2018, the total of Petitioner's gross earned income and her children's child support exceeded the monthly gross income limit to remain eligible for FAP benefits. If Petitioner had reported her earned income in a timely manner, then she would not have been eligible for any FAP benefits from April 1, 2018, through July 31, 2018. Therefore, Petitioner received a \$2,560 overissuance of FAP benefits due to client 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 \$2,560 overissuance of Food Assistance Program (FAP) benefits from April 1, 2018, through July 31, 2018, due to client error.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
\_\_\_\_\_  
**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**

Kalamazoo County via electronic mail

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

MDHHS-OIG via electronic mail

**DHHS Department Rep.**

MDHHS-Recoupment via electronic mail

**Petitioner**

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