



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: February 6, 2020
MOAHR Docket No.: 19-013554
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 Services 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], 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 August 30, 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 \$[REDACTED] 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 \$[REDACTED] 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's 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, pp 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 \$[REDACTED] and \$[REDACTED] 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 [REDACTED] [REDACTED] [REDACTED] 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).

Petitioner was an ongoing FAP recipient as a group of four on July 25, 2018, when the Department received her Redetermination (DHS-1010) form where she reported being employed since January of 2018. The earned income Petitioner was receiving from employment was not being applied towards her eligibility for FAP benefits due to Department error.

A FAP recipient is entitled to a 20% deduction from earned income that is reported to the Department in a timely manner. 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. As of October 1, 2018, the monthly gross income limit for a group of four was \$2,720. RFT 250 (October 1, 2018).

Petitioner was receiving earned income from employment that was not being applied towards her eligibility for FAP benefits, and her children were receiving countable child support income that the Department had applied towards the household's eligibility for FAP benefits. Because the failure to apply Petitioner's earned income towards her eligibility for FAP benefits during this period, Petitioner was entitled to the 20% earned income deduction. In each month from August 1, 2018, through November 30, 2018, the total of Petitioner's earned income after the 20% deduction and the children's child support exceeded the monthly gross income limit.

From December 1, 2018, through July 31, 2019, Petitioner's income did not exceed the monthly gross income limit. Applying the income deductions Petitioner was entitled to against the total income that should have been applied towards her income, Petitioner should have been eligible for a \$9 monthly allotment of FAP benefits but actually received \$243 of FAP benefits during that period.

Petitioner received a total of \$2,234 of FAP benefits that she was not eligible for due to Department error and the Department is required to recoup those benefits.

The Department can reduce or eliminate an overissuance if it is determined that a household's economic circumstances are such that the overissuance cannot be paid within three years. Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 1, 2017), p 16.

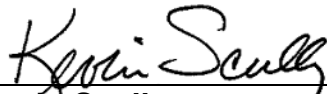
However, it is not within the jurisdiction of the Michigan Office of Administrative Hearing System (MOAHR) to make a finding of economic hardship, or to order the Department to compromise an established debt.

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 \$2,234 overissuance of Food Assistance Program (FAP) benefits due to Department error that must be recouped.

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], MI [REDACTED]