



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: March 10, 2020
MOAHR Docket No.: 19-013837
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. A hearing scheduled for February 12, 2020, was adjourned to the closure of state buildings in Lansing. After due notice, telephone hearing was held on March 5, 2020, from Lansing, Michigan. Petitioner was represented by his aunt and authorized hearing representative [REDACTED]. The Department was represented by Recoupment Specialist Dawn McKay and Kim Kilmer.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner 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] [REDACTED] 2018, the Department received Petitioner's Assistance Application as a household of one. Exhibit A, pp 4-9.
2. On January 27, 2019, the Department received Petitioner's Report Changes where he reported starting employment on January 7, 2019 and receiving his first paycheck on January 18, 2019. Exhibit A, pp 10-12.
3. Petitioner received earned income from employment from January 18, 2019, through October 11, 2019. Exhibit A, pp 14-19.

4. Due to Department error, Petitioner's earned income was not applied towards his eligibility for ongoing Food Assistance Program (FAP) benefits.
5. Petitioner received Food Assistance Program (FAP) benefits totaling \$1,344 from March 1, 2019, through September 30, 2019. Exhibit A, p 13.
6. On December 5, 2019, the Department sent Petitioner an Overissuance (DHS-4358) instructing him that a \$1,284 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 36-41.
7. On December 30, 2019, the Department received Petitioner's request for a hearing protesting the recoument of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

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.

On October 21, 2018, the Department received Petitioner's application for FAP benefits. On January 27, 2019, Petitioner reported that he had started employment on January 7, 2019, and that he had received his first paycheck on January 18, 2019. This was a timely report of a change to Petitioner's circumstances.

The maximum allotment of FAP benefits available for a household of one with a net income of \$█ was \$192 as of October 1, 2018. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 1.

Due to Department error, Petitioner's earned income was not applied towards his eligibility for FAP benefits. Even though Petitioner had reported his earned income to the Department, he continued to receive a \$192 monthly allotment of FAP benefits as if he was not receiving any net income. Petitioner received FAP benefits totaling \$1,344 from March 1, 2019, through September 30, 2019, which was \$192 per month. Petitioner would have been eligible for \$60 of those benefits if the Department had

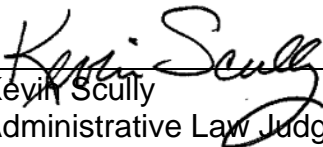
properly applied his income towards his eligibility for FAP benefits. Therefore, Petitioner received a \$1,284 overissuance of FAP benefits due to Department error.

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 had received a \$1,284 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/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

Kimberly Kilmer
800 Watertower
Big Rapids, MI
49307

Mecosta County DHHS- via electronic
mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS Department Rep.

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

Petitioner

[REDACTED] - via first class mail
[REDACTED]
[REDACTED], MI