



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: March 10, 2020
MOAHR Docket No.: 20-000266
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 represented herself. The Department was represented by Lori Aumic and Marlena Gillis-Spann.

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 April 17, 2019, the Department received Petitioner's Redetermination (DHS-1010) form where she reported that her employment ended on April 3, 2019. Exhibit A, pp 47-55.
2. During an eligibility interview on April 26, 2019, Petitioner reported to the Department that she had applied for unemployment compensation benefits, but that the Department's consolidated inquiry showed no results. Exhibit A, p 45.
3. On May 28, 2019, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a household of one receiving [REDACTED] income as of June 1, 2019. Exhibit A, pp 25-27.

4. Petitioner started employment on August 5, 2019, and received earned income from August 23, 2019, through December 13, 2019. Exhibit A, pp 28-29.
5. On August 17, 2019, the Department received Petitioner's Report Changes where she reported starting employment on August 5, 2019 and receiving her first paycheck on August 16, 2019. Exhibit A, pp 56-57.
6. On December 9, 2019, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a household of one receiving earned income in the gross monthly amount of \$ [REDACTED] as of January 1, 2020. Exhibit A, p 27.
7. Petitioner received Food Assistance Program (FAP) benefits from June 1, 2019, through December 31, 2019. Exhibit A, p 14.
8. On December 16, 2019, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that a \$1,097 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 7-12.
9. On January 2, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-6.

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.

Petitioner was an ongoing FAP recipient as a household of one on April 17, 2019, when the Department received her Redetermination (DHS-1010) form and notification that her employment had ended on April 3, 2019. On May 18, 2019, the Department notified Petitioner that she was eligible for ongoing FAP benefits as a household of one receiving no income.

On August 17, 2019, the Department received Petitioner's Report Changes where she reported starting employment on August 5, 2019 and receiving her first paycheck on August 16, 2019. If the Department had acted on this information in a timely manner, then the Department would have redetermined her eligibility to receive ongoing FAP benefits by the first benefit period after September 14, 2019.

The maximum allotment of FAP benefits for a group of one with a net income of \$█ was \$194 as of October 1, 2019. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 1.

Petitioner received a \$194 monthly allotment of FAP benefits from October 1, 2019, through December 31, 2019. If the Department had considered the earned income that was reported on August 17, 2019, then Petitioner would have been eligible for \$16 of those benefits. Therefore, Petitioner received a \$566 overissuance of FAP benefits due to Department error from October 1, 2019, through December 31, 2019.

The evidence supports a finding that during an eligibility interview on April 26, 2019, Petitioner reported applying for unemployment compensation benefits. Department records show that these benefits could not be verified through its electronic databases at that time.

This Administrative Law Judge finds that the Department's records are insufficient to establish when Petitioner received unemployment compensation benefits, and therefore, are insufficient to establish if she received FAP benefits she was not eligible for due to those unemployment benefits. Further, the Department failed to offer a budget detailing how the unemployment benefits cause an overissuance of FAP benefits.

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 an overissuance of Food Assistance Program (FAP) benefits due to Department error from October 1, 2019, through December 31, 2019, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner had received an overissuance in other timer period.

DECISION AND ORDER

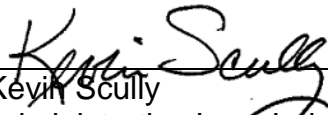
Accordingly, the Department's decision is AFFIRMED in part and REVERSED in part.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Accordingly, the Department is affirmed in part with respect to the Department error overissuance from October 1, 2019, through December 31, 2019, and reversed in part with respect to an overissuance from June 1, 2019, through September 30, 2019.

The Department is ORDERED to initiate recoupment procedures for the amount of \$566 in accordance with Department policy.

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

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Genesee Clio County DHHS- via
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OIG Hearings- via electronic mail

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Petitioner

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