



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 18, 2020
MOAHR Docket No.: 20-001208
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 12, 2020, from Detroit, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Kari Gingrich, Eligibility Specialist and Latoi Patillo, Recoupment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FAP recipient for the period of May 1, 2014 through August 31, 2014 (Exhibit A, p. 8).
2. On February 12, 2014, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits, and that he needed to report to the Department if his household income exceeded the simplified reporting limit for his group size, which was \$1,681 (Exhibit A, pp. 31-36).
3. In April 2014, Petitioner obtained employment.

4. Petitioner had income from employment during the period of May 1, 2014 through August 31, 2014 (Exhibit A pp. 22-24).
5. On [REDACTED], 2014, Petitioner completed a semi-annual related to his FAP benefit case (Exhibit A, pp. 29-30).
6. On January 30, 2020, the Department sent Petitioner a Notice of Overissuance stating Petitioner had been overissued FAP benefits in the amount of \$1,325 during the period of May 1, 2014 through August 31, 2014 (Exhibit A, pp. 1-6).
7. On February 10, 2020, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner obtained new employment in March 2014. The Department testified that Petitioner failed to notify the Department when his income exceeded the simplified reporting requirements. Simplified reporting groups are required to report only when the group's actual gross monthly income exceeds the simplified reporting income limit for their group size. BAM 200 (January 2017), p. 1. As a result, the income was not budgeted, and Petitioner received an overissuance in FAP benefits during the period of May 1, 2014 through August 31, 2014, due to client error.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2018), p. 1. A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 6. An agency error is caused by incorrect action by the Department staff or Department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (October 2018), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8. For client error overissuances due, at least in part, to failure to report earnings, the Department does

not allow the 20 percent earned income deduction on the unreported earnings. BAM 720 (October 2017), p. 10.

In support of its contention that Petitioner was overissued benefits, the Department presented FAP overissuance budgets for the period of May 1, 2014 through August 31, 2014 (Exhibit A, pp. 9-17). The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of Petitioner's unreported income. The Department received verification of Petitioner's income from Petitioner's employer and used it to calculate her actual income during the overissuance period (Exhibit A, pp. 22-24). The Department determined that Petitioner was only entitled to \$15 in FAP benefits during the period of May 1, 2014 through August 31, 2014. The Department also presented Petitioner's FAP Benefit Summary Inquiry (Exhibit A, p. 8). The Benefit Summary Inquiry shows Petitioner was issued FAP benefits in the amount of \$1,340 during the period of May 1, 2014 through August 31, 2014.

In support of its contention that the overissuance was a result of client error, the Department presented a semi-annual submitted by Petitioner on [REDACTED], 2014. In the semi-annual, Petitioner stated that his household income had not changed by more than \$100 of what was previously budgeted (the semi-annual indicated that \$803 was previously budgeted). Additionally, Petitioner reported that he had not experienced a change in earnings or employment. However, the employment verification shows that at the time the semi-annual was completed, Petitioner did have a change in employment/income and that his household income well exceeded \$[REDACTED] per month.

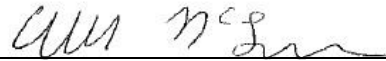
Petitioner's wife testified that she submitted pay statements verifying her husband's employment shortly after he began working. Petitioner stated that although he signed the [REDACTED], 2014 semi-annual, his wife answered the questions. Petitioner's wife stated she often seeks assistance from the Department when completing documents, as she has difficulty with reading comprehension. Petitioner and his wife were unsure as to why the semi-annual contained incorrect information. Petitioner and his wife testified that they did not intentionally conceal information from the Department.

Petitioner's and Petitioner's wife's testimony that they did not intentionally conceal information from the Department was credible. However, the overissuance was a result of their inadvertency, as the semi-annual contained incorrect information regarding their household income. Therefore, Department presented sufficient evidence to establish that Petitioner had been overissued FAP benefits as a result of client error. As such, the Department established that it was entitled to recoup overissued FAP benefits in the amount of \$1,325 for the period of May 1, 2014 through August 31, 2014.

DECISION AND ORDER

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 Petitioner was overissued FAP benefits in the amount of \$1,325 during the period of May 1, 2014 through August 31, 2014. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



Ellen McLemore

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

Via Email:

MDHHS-Cheboygan-Hearings
MDHHS-Recoupment-Hearings
M. Holden
D. Sweeney
BSC1- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

