



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: May 27, 2020
MOAHR Docket No.: 20-001690
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Upon the request for a hearing by the Petitioner [REDACTED] [REDACTED] this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a teleconference hearing was held on May 19, 2020, from Lansing, Michigan. The Department was represented by Latoy Patillo Recoupment Specialist.

Respondent did not appear. This matter having been initiated by the Petitioner and due notice having been provided to Petitioner, the hearing was held in Respondent's absence in accordance with Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 2017). Department Exhibit 1, pp. 1-74 was received and admitted.

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) benefits?

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 a recipient of FAP benefits from the Department.
2. The Department alleges Petitioner received a FAP OI during the periods from January 2017 through May 2017 and December 2017 through May 2018, due to **Petitioner's** error.

3. The Department alleges that Petitioner received \$2,104 OI that is still due and owing to the Department.
4. On January 2, 2020 Notice of Overissuance was sent to Petitioner alleging that he received \$2,104 overissuance of FAP benefits. (Exhibit 1, pp. 1-4)
5. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing disputing the finding or overissuance.
6. Petitioner had employment income from [REDACTED] [REDACTED] that he did not report and that was not budgeted. (Ex.1, pp. 40-44)

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

Client Error

All Programs

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.

A client error also exists when the client's timely request for a hearing result in deletion of a MDHHS action, **and any of the following occurred:**

- The hearing request is later withdrawn.
- MAHS denies the hearing request.
- The client or administrative hearing representative fails to appear for the hearing and MAHS gives MDHHS written instructions to proceed.
- The hearing decision upholds the department's actions BAM 700

Additionally, the Department provided sufficient proof that Petitioner failed to report employment income from American Axle on two occasions during both fraud periods. The Department provided pay records for Petitioner that show he had employment income that was not budgeted. (Ex.1, pp. 40-44) Petitioner was instructed to report employment income on his applications and he failed to do so. Petitioner received FAP benefits that he was not entitled to totaling \$2,104 that is still outstanding.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$2,104.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$2,104 OI in accordance with Department policy.

AM/nr



Aaron McClintic
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 Department Rep.

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

DHHS

Susan Noel
26355 Michigan Ave
Inkster, MI
48141

Wayne 19 County DHHS- via electronic
mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

Petitioner

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