



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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████████, MI ██████████

Date Mailed: July 8, 2020
MOAHR Docket No.: 20-003587
Agency No.: ██████████
Petitioner: ██████████ ██████████

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. After due notice, telephone hearing was held on July 1, 2020, from Lansing, Michigan. Petitioner represented herself and her husband, ██████████ ██████████ testified on her behalf. The Department was represented by Eugene Brown.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance 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. On December 23, 2013, the Department received Petitioner's Redetermination (DHS-1010) form where she reported to the Department that she was not employed, and acknowledged the duties and responsibilities for her receipt of ongoing Food Assistance Program (FAP) benefits. Exhibit A, pp 78-80.
2. On September 17, 2014, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of two based on earned income in the gross monthly amount of \$597. Exhibit A, pp 48-51.
3. On December 30, 2014, the Department received Petitioner's Redetermination (DHS-1010) form where she reported being employed by Diversified and receiving earned income in the gross monthly amount of \$█████████ Exhibit A, pp 81-86.

4. On February 4, 2015, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of two based on earned income in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 44-47.
5. On June 19, 2015, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of two based on earned income in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 38-43.
6. On December 16, 2015, the Department received Petitioner's Semi-Annual Contact Report (DHS-1046) where she reported being employed by Diversified and Finish Master. Exhibit A, pp 87-88.
7. Petitioner started employment with [REDACTED] [REDACTED] and received earned income from September 12, 2014, through June 19, 2015. Exhibit A, p 53.
8. Petitioner was employed and received earned income from [REDACTED] from November of 2014, through June of 2015. Exhibit A, pp 52-76.
9. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,856 from November 1, 2014, through June 30, 2015. Exhibit A, pp 19-20.
10. On March 12, 2020, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that a \$2,556 overissuance of Food Assistance Program (FAP) benefits received during the period of November 1, 2014, through June 30, 2015, would be recouped due to client error. Exhibit A, pp 7-12.
11. On March 26, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-5.

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 December 23, 2013, Petitioner was an ongoing FAP recipient when the Department received Petitioner's Redetermination (DHS-1010) form. Petitioner reported on this form that she was not employed. Petitioner's signature on that form indicated her acceptance of the duties and responsibilities of receiving ongoing FAP benefits including the duty to report changes of employment status and income within 10 days.

On September 17, 2014, the Department notified Petitioner that she was eligible for ongoing FAP benefits as a household of two based on earned income in the gross monthly amount of \$[REDACTED]

On December 30, 2014, the Department received Petitioner's Redetermination (DHS-1010) form where she reported being employed by Diversified in the gross monthly amount of \$[REDACTED]

On February 4, 2015, the Department notified Petitioner that she was eligible for FAP benefits as a household of two based on earned income in the gross monthly amount of \$[REDACTED] which would have been converted from bi-weekly paychecks to a monthly prospective income by multiplying the average of her bi-weekly paychecks by the 2.15 conversion factor as directed by BEM 505.

Petitioner started a second job and began receiving earned income from that job on or around September 12, 2014. This change of employment status was not reported to the Department.

Petitioner testified that she believed that she was not required to report her additional income until it exceeded the gross monthly amount of \$[REDACTED] as directed by the February 4, 2015, notice of her eligibility for FAP benefits.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include changes of employment status. These duties do not apply to FAP recipients classified as simplified reporters. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2019), pp 1-20.

Food assistance groups with countable earned income are not eligible for simplified reporting. Department of Human Services Bridges Assistance Manual (BAM) 200 (January 1, 2020), pp 1-2.

Petitioner had a duty to report starting employment and an increase of income that affected her eligibility for ongoing FAP benefits. Petitioner may have believed that she was not required to report the increased income to the Department, but her eligibility for FAP benefits not based on her actual income.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (October 1, 2019), p 12. The Department will act on a change reported by means other than a tape match within 15 workdays after

becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (April 1, 2019), p 7. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

Petitioner received FAP benefits as a household of two totaling \$2,856 from November 1, 2014, through June 30, 2015. If Petitioner had reported her September 12, 2014, from the unreported employer, the Department would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after October 14, 2014. If Petitioner had reported all of her income from November 1, 2014, through June 30, 2015, she would have been eligible for FAP benefits totaling \$300 during that period. Therefore, Petitioner received \$2,556 of FAP benefits that she was not eligible for.

Whether Petitioner thought that her income did not need to be reported to the Department in a timely manner is not relevant here. The hearing record establishes that Petitioner received FAP benefits that she was not eligible for based on her actual circumstances during that period.


Petitioner is entitled to a 20% earned income deduction for income that was reported to the Department in a timely manner as directed by BEM 556. The hearing record establishes that Petitioner was granted this deduction for income from the employment she reported to the Department but was not granted this deduction for the unreported employment income.

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 \$2,556 overissuance of Food Assistance Program (FAP) benefits due to client error, and the Department is required to recoup this debt.

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

Lacy Miller
105 W. Tolles Drive
St. Johns, MI
48879

Clinton County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS Department Rep.

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

Petitioner

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