



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: September 30, 2020
MOAHR Docket No.: 20-005471
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, a telephone hearing was held on September 22, 2020. Petitioner was represented by his Authorized Hearing Representative ██████ ██████ Petitioner appeared at the hearing but was unable to testify due to his physical impairments. The Department was represented by Mary Peterson.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is required 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. On December 29, 2016, the Department received Petitioner's Redetermination (DHS-1010) form where he reported receiving social security benefits. Exhibit A, pp 8-16.
2. On ██████ ██████ 2018, the Department received Petitioner's application for assistance where he reported receiving social security benefits. Exhibit A, pp 30-55.
3. On March 15, 2-018, the Department received Petitioner's Redetermination (DHS-1010) form where he reported receiving social security benefits. Exhibit A, pp 56-57.

4. Due to Department error, the Department deleted Petitioner's social security benefits from his case from February 28, 2018, through December 31, 2017. Exhibit A, p 70.
5. On March 29, 2018, the Department notified Petitioner that he was eligible for ongoing Food Assistance Program (FAP) benefits based on a gross monthly income of \$1,411, and that he would received a \$714 supplement of additional benefits for the period of June 1, 2017, through December 31, 2017. Exhibit A, pp 58-62.
6. On March 29, 2018, it was discovered that Petitioner received Food Assistance Program (FAP) benefits from June 1, 2017, through December 31, 2017, based on \$█ income when he was actually receiving social security benefits. Exhibit A, p 68.
7. On May 27, 2020, the Department notified Petitioner that a \$662 overissuance of Food Assistance Program (FAP) benefits would be recouped for the period of June 1, 2017, through December 31, 2017. Exhibit A, pp 111-115.
8. On June 8, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 5-6.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

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.

Respondent is an ongoing FAP recipient. The evidence supports a finding that Respondent had consistently reported that his sole source of income is his social security benefits.

However, due to Department error, those social security benefits were deleted from the Department's system. On March 29, 2018, the Department incorrectly reached a

determination that Petitioner had received less FAP benefits than he was eligible for as a person with no income. The Department issued Petitioner a \$714 supplement of FAP benefits for the period of June 1, 2017, through December 31, 2017. No explanation for the reason the supplement had been issued was given on the notice, only that those benefits would be issued to him.

It should be noted that Petitioner suffers from throat cancer and his ability to ask his caseworker the reason for the FAP supplement was impaired.

On March 29, 2018, the Department's error was discovered, and that Petitioner had received FAP benefits that he was not actually eligible for. After a thorough review of Petitioner's eligibility, the Department notified him on March 27, 2020, that he had received a \$662 overissuance of FAP benefits caused by the Department's error.

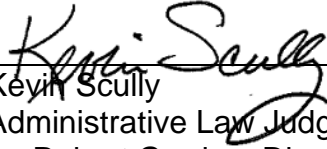
Federal regulations require the Department to collect FAP benefits that are overpaid even when the overpayment is caused by an action by the Department and regardless of the timeframes when the overpayment is discovered. 7 CFR 273.18.

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 \$662 overissuance of Food Assistance Program (FAP) benefits 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

Marci Walker
1720 East Main Street
Owosso, MI
48867

Shiawassee 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

██████████ - via first class mail
██████████
██████████, MI
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