



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: October 5, 2020
MOAHR Docket No.: 20-005666
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 October 1, 2020. Petitioner was represented by her husband ██████████ ██████████. The Department was represented by Donna McKay.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received Food Assistance Program (FAP) benefits that she was not eligible for and that must be recouped by the Department?

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 Food Assistance Program (FAP) recipient on July 25, 2019, when the Department received her Redetermination (DHS-1010) form where she reported that her husband was employed. Exhibit A, pp 4-11.
2. On September 23, 2019, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits based on earned income in the gross monthly amount of \$██████████ and instructing her to notify the Department if household income exceeded the limit for a household of six which was \$3,748. Exhibit A, pp 12-13.
3. Petitioner's husband received earned income from employment in the gross monthly amount of \$██████████ for March of 2020. Exhibit A, p 16.
4. Petitioner's gross monthly household income exceed \$██████████ in each month from March through August of 2020. Exhibit A, p 16.

5. Petitioner received Food Assistance Program (FAP) benefits totaling \$744 from May 1, 2020, through August 31, 2020. Exhibit A, p 17.
6. On August 18, 2020, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that a \$744 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 27-32.
7. On August 26, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 3.

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.

Simplified reporting groups are required to report only when the group's actual gross monthly income (not converted) exceeds the SR income limit for their group size. No other change reporting is required. If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's SR income limit; see RFT 250, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. Department of Health and Human Services Bridges Administrative Manual (BAM) 200 (January 1, 2020), p 1.

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 (July 1, 2020), p 7. A pended 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.

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 September 23, 2019, the Department notified Petitioner that she was eligible for ongoing FAP benefits and that it was her duty to report if household income exceeded \$3,748. At that time, the household gross monthly income was \$[REDACTED]

Petitioner failed to report that in March of 2020, her husband received earned income in the gross monthly amount of \$[REDACTED]. If Petitioner had reported this increased income by the 10th day of April as directed by BAM 220 and instructed on the September 23, 2019, Notice of Case Action, the Department would have redetermined FAP eligibility by May 1, 2020.

Petitioner received FAP benefits totaling \$744 from May 1, 2020, through August 31, 2020. If Petitioner had reported that that household earned income exceeded \$4,000 in each of those months, she would not have been eligible for any of the FAP benefits that she received. Therefore, Petitioner received a \$744 overissuance of FAP benefits.

Petitioner's husband testified that he was not aware that his income had exceeded the income limit. Petitioner's husband testified that his employer began reporting funds directed towards medical insurance as gross income when it had not been reported as income previously.


However, the Department is required to determine eligibility for FAP benefits from the gross monthly income of a household. Petitioner's household was close to the income limit in 2019, and an increase of gross income in 2020 put the household over the limit to receive ongoing FAP benefits. Therefore, Petitioner received FAP benefits that she was not eligible for, and this was caused by a failure to report increased household 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 \$744 overissuance of 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

Joleen Peck
701 S. Elmwood Suite 19
Traverse City, MI
49684

Grand Traverse 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
██████████