



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: October 13, 2020
MOAHR Docket No.: 20-005775
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 7, 2020. Petitioner represented herself. The Department was represented by Jody Anderson.

ISSUE

Did the Department of Health and Human Services (Department) properly determined that Petitioner received an overissuance of Food Assistance Program (FAP) benefits 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 received Food Assistance Program (FAP) benefits totaling \$1,938 from June 1, 2020, through August 31, 2020. Exhibit A, p 17.
2. Petitioner's husband received unemployment compensation from April of 2020, through August of 2020, but did not report this income until July 9, 2020.
3. On July 9, 2020, the Department received Petitioner's Renew Benefits form where she reported that she was employed, and her husband was receiving unemployment compensation benefits. Exhibit A, pp 28-30.
4. On August 24, 2020, the Department sent Petitioner a Notice of Overissuance instructing her that a \$1,552 overissuance of Food Assistance Program (FAP) benefits would be recouped. Exhibit A, pp 11-16.

5. On September 3, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 5-7.

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.

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 the receipt of unemployment compensation benefits. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2019), pp 1-20.

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.

Petitioner was an ongoing FAP recipient and received FAP benefits totaling \$1,938 from June 1, 2020, through August 31, 2020.

Respondent's husband began receiving unemployment compensation benefits in April of 2020. This income was not reported to the Department in a timely manner, and Petitioner did not dispute that the income was not reported until July 9, 2020.

Petitioner testified that she was under the belief that when her husband was approved for unemployment compensation benefits, that the Department would be aware of this change of circumstances.

Petitioner had a duty to report her husband's unemployment compensation benefits to the Department. Although this income is often identified through the Department's access to electronic databases showing unemployment benefits paid by the state of Michigan, the income was not discovered by the Department in this case. If Petitioner had reported her husband's unemployment benefits in a timely manner, the Department would have redetermined her eligibility for ongoing FAP benefits by June 1, 2020.

In June of 2020, Petitioner's husband received unemployment compensation benefits in the gross monthly amount of \$[REDACTED]. The gross income limit for a household of four is \$2,790. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2019), p 1. Therefore, if Petitioner's gross household income had been reported to the Department, the Department would have closed Petitioner's FAP benefits and no FAP benefits would have been received in June and July of 2020.

In August of 2020, Petitioner had started receiving earned income from employment and her husband's unemployment compensation benefits were reduced. Petitioner had reported her income and her husband's unemployment benefits by this time, but not before she received her FAP benefits for August based on no household income. Based on Petitioner's actual income in August of 2020, she would have been eligible for a \$386 monthly allotment of FAP benefits. She received \$646 monthly allotment in August of 2020. Therefore, Petitioner received a \$260 overissuance of FAP benefits in August of 2020.

Petitioner argued that she was eligible for the maximum allotment available for a household of four in August of 2020 with the addition of the COVID-19 Response Emergency Food Allotment. Per the Economic Stability Administration Memorandum ESA 2020-15, active FAP groups who are not currently receiving the maximum benefit amount for their group size will receive a supplement to bring their benefit amount to the maximum amount allowed for their group size. Groups already receiving the maximum benefit amount will not receive an additional supplement.

Based on Petitioner's circumstances in August of 2020, she was eligible for a \$386 monthly allotment of FAP benefits. If she had reported her circumstances in a timely manner, she would have received the COVID-19 Response Emergency Food Assistance Allotment but received the maximum allotment based on a household with no income.

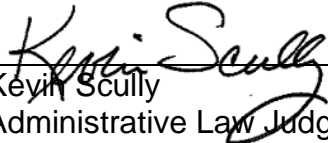
However, the COVID-19 Response Emergency Food Assistance Allotment supplement is not an entitlement and Petitioner does not have a right to a hearing protesting her receipt of the supplement. Petitioner received the maximum allotment of FAP benefits based on her untimely report of household income. The Department determined that Petitioner received an overissuance of FAP benefits in August of 2020 based on the amount she was eligible for based on her actual income, and the amount she actually received.

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 \$1,552 overissuance of Food Assistance Program (FAP) benefits due to client error cause by Petitioner's assumption that the Department was aware of her husband's unemployment compensation benefits.

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

Bob Bush
205 E. Cayuga St
PO Box 316
Bellaire, MI
49615

Antrim 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
██████