



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: February 18, 2021
MOAHR Docket No.: 20-008505
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 February 10, 2021. Petitioner represented herself. The Department was represented by Annete Fullerton.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that must be recouped?

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 an application for assistance dated ██████████ 2016, Petitioner acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits. Exhibit A, pp 30-48.
2. Petitioner reported on her ██████████ 2016, application form that she was not employed. Exhibit A, p 45.
3. Petitioner received earned income from employment from February 26, 2016, through September 9, 2016. Exhibit A, pp 4-5.
4. Petitioner received unemployment compensation benefits from February 20, 2016, through April 30, 2016. Exhibit A, pp 6-8.
5. Petitioner received child support from May of 2016, through August of 2016. Exhibit A, pp 11-14.

6. Petitioner received Food Assistance Program (FAP) benefits totaling \$972 from April 1, 2016, through June 30, 2016. Exhibit A, p 15.
7. On September 13, 2016, the Department referred Petitioner's case for a review into whether she had received Food Assistance Program (FAP) benefits that she was not eligible for. Exhibit A, p 3.
8. On December 1, 2020, the Department notified Petitioner that she had received a \$776 overissuance of Food Assistance Program (FAP) benefits during the period of April 1, 2016, through June 30, 2016. Exhibit A, pp 25-29.
9. On December 13, 2020, the Department received Petitioner's request for a hearing protesting the recoupment of an overissuance of Food Assistance Program (FAP) benefits. Exhibit A, p 48.

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.

On an application for assistance dated [REDACTED] 2016, Petitioner acknowledged the duties and responsibilities of receiving FAP benefits including the duty to report all household income. Petitioner reported on her application form that she was not employed.

Petitioner received earned income from employment from February 26, 2016, through September 9, 2016. Petitioner received FAP benefits totaling \$972 from April 1, 2016, through June 30, 2016, as if she was not receiving any earned income. Based on the income Petitioner received during that period, she was only eligible for \$196 of those FAP benefits. Therefore, Petitioner received a \$776 overissuance of FAP benefits.

Petitioner testified that she did report starting employment and receiving income in a timely manner but failed to offer any evidence supporting her claim.

The evidence supports a finding that Petitioner receiving ongoing FAP benefits as a household of four not receiving any earned income and that she received FAP benefits that she was not eligible for.

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 \$776 overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
for Elizabeth Hertel, 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

Jessica Kirchmeier
1050 Independence Blvd
Charlotte, MI
48813

Eaton 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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