



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: May 26, 2021
MOAHR Docket No.: 21-001603
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 29, 2021.

Petitioner appeared unrepresented.

The Department of Health and Human Services (Department) was represented by Jody Anderson, Recoupment Specialist.

Department Exhibit A.40 was offered and admitted into the record.

ISSUE

Did the Department properly determine that Petitioner was overissued Food Assistance Program (FAP) benefits that the Department is entitled 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. At all relevant times, Petitioner was a beneficiary of the FAP program.
2. On March 2, 2021, the department issued a Notice of Overissuance to Petitioner indicating that due to client error Petitioner received an overissuance in FAP benefits from August 1, 2018 through December 31, 2018 due to Petitioner failing to report earned income.
3. On March 30, 2021 Petitioner filed a hearing request.

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.

Applicable policy and procedure to the case herein is found at numerous manual items found in BAM and BEM. Corresponding federal regulations are found at 7 CFR 273.18.

In this case, Department evidence shows that Petitioner was required to report changes in income within 10 days. On or about January 24, 2019, the Department became alerted to previously unreported income and issued a wage match verification to Petitioner to verify his employment with [REDACTED]. Petitioner failed to respond.

A review of the record shows that Petitioner had earned income with [REDACTED] that began June 14, 2018. Petitioner's income was not budgeted in Petitioner's FAP allotment resulting in an overissuance totaling [REDACTED] from August 2018 through December 2018. These facts are not disputed.

Petitioner argues that he informed a case worker at [REDACTED]. The Department responded that [REDACTED] is not part of the MDHHS, and that Petitioner was given clear information that he was to report any and all changes to the MDHHS. Moreover, Petitioner failed to respond to the Department's January 24, 2019 request for employment verification.

After a careful review of the credible and substantial evidence of record, the undersigned finds that the Petitioner failed to rebut the evidence here that he was overissued FAP benefits. What is disputed is whether the error here is client or agency error. The Department classified the error as client error due to Petitioner's failure to report the wages and to respond upon an inquiry by the state. The undersigned finds that the evidence of record supports the Department's position. However, and even if the error here were to be classified as an agency error, the end result would be the same - Petitioner is required under federal and state law to repay any FAP overissuance regardless of whose error it is. Failure to collect an overissuance can subject the State of Michigan to significant financial penalties. Thus, under these facts the Department's action must be affirmed.

It is noted that the undersigned has no power to deviate from policy or grant any equitable remedy.

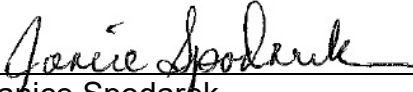
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Petitioner was overpaid FAP benefits for the benefit period from August 2018 through December 2018 and thus, the Department may engage in any collection or recoupment as permitted by policy and procure, deducting any offsets already collected.

For these reasons and for the reasons stated on the record, the recoupment action is supported by credible evidence and the Department did act in accordance with policy and federal regulations. 7 CFR 216.18.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

JS/ml



Janice Spodarek
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 Department Rep.

MDHHS-Recoupment – via electronic mail

DHHS

Nicolette Vanhavel – via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]