



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: May 12, 2021
MOAHR Docket No.: 21-001794
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 May 5, 2021. Petitioner was represented by ██████████ ██████████ of ██████████ ██████████ ██████████. Petitioner testified on his own behalf. Philder Okech translated for Petitioner. The Department was represented by LaCre Barnett.

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. The Department received Petitioner's application for Food Assistance Program (FAP) benefits on ██████████ ██████████ 2020. Exhibit A, pp 67-73.
2. Petitioner received Food Assistance Program (FAP) benefits totaling \$806 from September 1, 2020, through December 31, 2020. Exhibit A, p 18.
3. Petitioner was employed and received earned income from July 3, 2020, through March 5, 2021. Exhibit A, pp 53-66.
4. On March 12, 2021, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing him that he had received a \$806 overissuance of Food Assistance Program (FAP) benefits during the period of September 1, 2020, through December 31, 2020, due to client error. Exhibit A, pp 35-40.

5. On March 26, 2021, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 3-5.
6. The Department deleted the \$806 overissuance of Food Assistance Program (FAP) benefits due to client error. Exhibit A, p 15.
7. On April 8, 2021, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing him that he had received a \$806 overissuance of Food Assistance Program (FAP) benefits during the period of September 1, 2020, through December 31, 2020, due to agency error. Exhibit A, pp 9-14.

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.

An agency error is caused by incorrect actions (including delayed or no action) by the Michigan Department of Health and Human Services (MDHHS) staff or department processes. Department of Health and Human Services Bridges Administrative Manual (BAM) 705 (October 1, 2018), p 1.

A client error occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p 7.

Petitioner applied for FAP benefits on [REDACTED] 2020. He received FAP benefits totaling \$806 from September 1, 2020, through December 31, 2020. Petitioner received those FAP benefits as a household of one not receiving any income.

However, Petitioner was employed and receiving an income during that period. This employment was reported to the Department in a timely manner. The Department's representative is not disputing that information related to Petitioner's employment was

available to the Department, and that he received FAP benefits that he was not eligible for due to the Department's failure to act on available information.


The hearing record supports a finding that Petitioner received FAP benefits that he was not eligible for. The Department is required to establish and collect any benefits that are overpaid. 7 CFR 273.18(a).

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 an 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 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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
49507

Kent 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
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Petitioner

[REDACTED] - via first class mail
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