



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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Date Mailed: July 23, 2021
MOAHR Docket No.: 21-003004
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 13, 2021, from Lansing, Michigan. ██████████ Maintenance Director and Authorized Hearing Representative (AHR), represented the Petitioner. ██████████, the Petitioner, appeared and testified. The Department of Health and Human Services (Department) was represented by Jennifer Braxmaier, Recoupment Specialist (RS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-65.

ISSUE

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that she was not eligible for and 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 ██████████ 2020, Petitioner applied for FAP. Petitioner reported that she was off work from Samaritas due to injury and she did not have any income at that time. (Exhibit A, pp. 4-9)
2. On April 22, 2020, a Notice of Case Action was issued to Petitioner stating FAP was approved. The budget summary showed no earned income was included in the FAP budget. The Notice reminded Petitioner of the responsibility to report any changes within 10 days. (Exhibit A, pp. 15-22)

3. On March 30, 2021, during the mid-certification review, it was discovered that Petitioner had ongoing earnings since the [REDACTED], 2020 application date. A report from the Work Number verified Petitioner's income from employment. (Exhibit A, pp. 23-29)
4. The Department determined that Petitioner was overissued FAP benefits from April 1, 2020 through March 31, 2021 due to not reporting accurate income information. (Exhibit A, pp. 1 and 30-57)
5. On May 12, 2021, the Department sent Petitioner a Notice of Overissuance instructing her that a \$2,194.00 overissuance of FAP benefits occurred from April 1, 2020 through March 31, 2021 and would be recouped. (Exhibit A, pp. 58-63)
6. On May 26, 2021, the Department received Petitioner's request for a hearing protesting the recoument of FAP benefits. (Hearing Request, Unnumbered)

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.

Pursuant to BAM 105, clients have a responsibility to cooperate with the Department in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, October 1, 2019, p. 9. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. This includes any changes with assets. (BAM 105, pp. 11-14)

For FAP, the Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220, April 1, 2020, p. 7. A pending 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. BAM 700, October 1, 2018, p. 1. An agency

error is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes, such as when available information was not used. Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 5. 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.

In this case, the Department determined that a client error overissuance occurred because Petitioner did not report accurate income information at the time of application, and no changes were reported from the initial approval that showed no income was being included in the FAP budget. (Exhibit A, p. 1; RS Testimony)

On [REDACTED], 2020, Petitioner applied for FAP. Petitioner reported that she was off work from Samaritas due to injury and she did not have any income at that time. (Exhibit A, pp. 4-9.) On April 22, 2020, a Notice of Case Action was issued to Petitioner stating FAP was approved. The budget summary showed no earned income was included in the FAP budget. The Notice reminded Petitioner of the responsibility to report any changes within 10 days. (Exhibit A, pp. 15-22.) On March 30, 2021, during the mid-certification review, it was discovered that Petitioner had ongoing earnings since the [REDACTED] 2020 application date. A report from the Work Number verified Petitioner's income from employment. (Exhibit A, pp. 23-29.) The Department determined that Petitioner was overissued FAP benefits from April 1, 2020 through March 31, 2021 due to not reporting accurate income information. (Exhibit A, pp. 1 and 30-57.) Accordingly, on May 12, 2021, the Department sent Petitioner a Notice of Overissuance instructing her that a \$2,194.00 overissuance of FAP benefits occurred from April 1, 2020 through March 31, 2021 and would be recouped. (Exhibit A, pp. 58-63)

Petitioner and her AHR credibly testified that Petitioner did not intentionally provide inaccurate information. Petitioner may have not understood something she read, this is not one of her skills in life. For example, Petitioner had difficulty understanding the notice for this hearing. Petitioner was injured and was off work at times for COVID. However, Petitioner was paid because she was able to use hours of paid time off that she had accumulated. Petitioner explained that when she filed for FAP she was going through a divorce, had just had a house fire, and broken her arm. Petitioner was in need of help. Petitioner's hearing request and testimony indicated she believed the action at issue related to trading her car and her name changing. (Hearing Request; Petitioner and AHR Testimony)

Overall, the evidence supports the Department's determination that Petitioner received an overissuance of FAP benefits from April 1, 2020 through March 31, 2021 due to a client error. Petitioner did not report accurate income information at the time of application, and no changes were reported from the initial approval that showed no income was being included in the FAP budget. The Department properly sought recoupment of \$2,194.00 from Petitioner.


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 \$2,194.00 overissuance of FAP benefits that must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CL/tlf



Colleen Lack
Administrative Law Judge

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

Recipients via Electronic Mail:

MDHHS-GR8North-Hearings
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BSC1 Hearing Decisions
M. Holden
D. Sweeney
MOAHR

Authorized Hearing Rep. – Via USPS:

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

Petitioner – Via USPS:

[REDACTED]
[REDACTED] MI [REDACTED]