



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: April 6, 2022
MOAHR Docket No.: 22-000675
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 31, 2022, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Walita Randle, Recoupment Specialist.

ISSUE

Did Petitioner receive an overissuance of 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. Petitioner was an ongoing FAP recipient for the period of November 1, 2021 through January 31, 2022 (Exhibit A, p. 14).
2. On August 23, 2021, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits, and that he needed to report to the Department if his household income exceeded the simplified reporting limit for his group size, which was \$ [REDACTED] (Exhibit A, pp. 28-32).
3. In September 2021, Petitioner ceased receiving Unemployment Compensation Benefits (UCB) and began receiving Retirement, Survivors and Disability Insurance (RSDI) income in the amount of \$ [REDACTED] per month (Exhibit A, pp. 22-24).
4. The Department had also been budgeting Petitioner's wife's income from employment (Exhibit A, p. 26).

5. On December 4, 2021, Petitioner completed a semi-annual report and indicated that his wife was still receiving income from employment and that he was not receiving RSDI income (Exhibit A, pp. 35-36).
6. On February 2, 2022, the Department sent Petitioner a Notice of Overissuance stating Petitioner had been overissued FAP benefits in the amount of \$ [REDACTED] during the period of November 1, 2021, through January 31, 2022 (Exhibit A, pp. 6-11).
7. On February 14, 2022, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner began receiving RSDI income in September 2021. The Department testified that Petitioner failed to notify the Department when his income exceeded the simplified reporting requirements. Simplified reporting groups are required to report only when the group's actual gross monthly income exceeds the simplified reporting income limit for their group size. BAM 200 (January 2017), p. 1. As a result, the income was not budgeted, and Petitioner received an overissuance in FAP benefits during the period of November 1, 2021, through January 31, 2022, due to client error.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 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. 6. An agency error is caused by incorrect action by the Department staff or Department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (October 2018), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8. For client error overissuances due, at least in part, to failure to report earnings, the Department does not allow the 20 percent earned income deduction on the unreported earnings. BAM 720 (October 2017), p. 10.

In support of its contention that Petitioner was overissued benefits, the Department presented FAP overissuance budgets for the period of November 1, 2021, through January 31, 2022 (Exhibit A, pp. 15-21). The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of Petitioner's RSDI income. The Department received verification of Petitioner's income from Petitioner's State Online Query (SOLQ) report and used it to calculate his actual income during the overissuance period (Exhibit A, pp. 22-24). The Department determined that Petitioner was not entitled to any FAP benefits during the period of November 1, 2021, through January 31, 2022. The Department also presented Petitioner's FAP Benefit Summary Inquiry (Exhibit A, p. 14). The Benefit Summary Inquiry shows Petitioner was issued FAP benefits in the amount of \$ [REDACTED] during the period of November 1, 2021, through January 31, 2022.

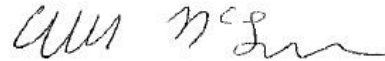
In support of its contention that the overissuance was a result of client error, the Department presented a semi-annual submitted by Petitioner on December 4, 2021. In the semi-annual, Petitioner reported that he was no longer receiving unemployment benefits, and was now collecting RSDI income. Additionally, Petitioner reported that his wife was still receiving income from employment. The Department also provided Petitioner's case comments to show that Petitioner failed to report the change in income.

At the hearing, Petitioner testified that he did not report the change in income until December 2021, because he did not understand that he was required to report the change. Petitioner stated that his RSDI income was less than his unemployment payment. Additionally, Petitioner stated that he did not begin receiving RSDI until October 6, 2021, which was when he received his September 2021 payment. Petitioner also testified that during this time period, his wife was out of the country and did not have income. Petitioner stated that his household income was less than was he was receiving previous to the income change. As such, Petitioner did not understand that he needed to report the income.

Petitioner's testimony that they did not intentionally conceal information from the Department was credible. However, the overissuance was a result of his inadvertency. Petitioner testified at the hearing that he never reported that his wife was out of the country. Therefore, there is no verification that Petitioner's wife did not have income during this time period. Petitioner's RSDI income, combined with Petitioner's wife's income, exceeded the income limit for his group size. Thus, Petitioner was not eligible for FAP benefits. Therefore, Department presented sufficient evidence to establish that Petitioner had been overissued FAP benefits as a result of client error. As such, the Department established that it was entitled to recoup overissued FAP benefits in the amount of \$ [REDACTED] for the period of November 1, 2021, through January 31, 2022.

DECISION AND ORDER

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 Petitioner was overissued FAP benefits in the amount of \$ [REDACTED] during the period of November 1, 2021, through January 31, 2022. Accordingly, the Department's decision is **AFFIRMED**.



EM/tm

Ellen McLemore
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

Via Email:

MDHHS-Wayne-18-Hearings
M. Holden
D. Sweeney
MDHHS-Recoupment-Hearings
BSC4
MOAHR

[REDACTED]
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