



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]
[REDACTED], MI [REDACTED]

Date Mailed: June 17, 2022
MOAHR Docket No.: 22-002175
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

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, telephone hearing was held on June 14, 2022, from Lansing, Michigan. Petitioner was represented by her authorized representative [REDACTED] [REDACTED]. The Department was represented by Julie Barr.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is required 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 Food Assistance Program (FAP) recipient as a household of one when the Department received her Redetermination (DHS-1010) form on May 17, 2021. Exhibit A, pp 18-22.
2. Petitioner received Food Assistance Program (FAP) benefits totaling \$5,249 from June 1, 2020, through April 30, 2022, which included supplemental benefits granted pursuant to the Consolidated Appropriations Act, which provided emergency supplemental assistance due to COVID-19 pandemic-related economic conditions. Exhibit A, pp 105-112.
3. Petitioner reported on her May 17, 2021, Redetermination form that housing was being paid for by her accident insurance. Exhibit A, p 22.

4. On April 29, 2022, the Department notified Petitioner that she had received a \$5,249 overissuance of Food Assistance Program (FAP) benefits during the period of June 1, 2020, through April 30, 2022. Exhibit A, pp 129-135.
5. On December 20, 2021, the Department discovered through a collateral contact that Petitioner has had all her meals provided to her through an assistance living facility which was being paid for by an insurance company since June 1, 2021. Exhibit A, p 27.
6. On May 11, 2022, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 7-8.

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. A recipient claim is an amount owed because of benefits that are overpaid and the Department must establish and collect any claim. 7 CFR 273.18(a).

A person is a resident of an institution when the institution provides the majority of her meals as part of its normal services. Residents of institutions are not eligible for FAP unless the facility is authorized by the Food and Nutrition Service (FNS) to accept FAP benefits, or the facility is an eligible group living facility, or the facility is a medical hospital and there is a plan for the person's return home. Department of Health and Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2022), p 8.

Petitioner was an ongoing FAP recipient as a household of one. Petitioner received FAP benefits totaling \$5,249 from June 1, 2020, through April 30, 2022, which was the maximum allotment available to a household of one and included supplemental benefits granted pursuant to the Consolidated Appropriations Act.

Petitioner failed to report that as of June 1, 2020, all her meals had been provided to her through an assisted living company and paid for by her insurance company. Having a majority of her meals provided to her made Petitioner ineligible for any FAP benefits. If Petitioner had reports that her meals were being paid for by her insurance company, the Department would have closed Petitioner's FAP benefits, and she would not have been eligible for any FAP benefits of emergency supplemental food assistance either.

Petitioner's representative argued that Petitioner did not intentionally fail to report a change of circumstances. It should be noted that Petitioner was not asked whether she was being provided meals paid for by her insurance.

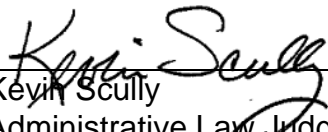
However, Petitioner received FAP benefits that she was not entitled to, and she received these benefits as a result of her failure to report a change of circumstances that the Department had no reason to be aware of.

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 \$5,249 overissuance of Food Assistance Program (FAP) benefits due to client error.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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-Electronic Mail :

DHHS
Joan King
Delta County DHHS
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Interested Parties
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Recoupment
L. Bengel

DHHS Department Rep.
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Verification (ORV)
235 S Grand Ave
Suite 1011
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Via First Class Mail :

Authorized Hearing Rep.

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

Petitioner

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