



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: October 4, 2022
MOAHR Docket No.: 22-003490
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 September 27, 2022, from Lansing, Michigan. Petitioner was represented by ██████ ██████ The Department was represented by Julie Barr.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner receive an overissuance of Food Assistance Program (FAP) benefits due to client error?

Did the Department of Health and Human Services (Department) properly determine that Petitioner receive an overissuance of Food Assistance Program (FAP) benefits due to Department error?

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 ██████ ██████ the Department received Petitioner’s application for Food Assistance Program (FAP) benefits where he reported that he had not been employed in the last 30 days. Exhibit A, p 16.
2. On July 22, 2021, Petitioner reported to the Department during a routine eligibility interview that he was not receiving any income. Exhibit A, p 11.
3. On July 22, 2021, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a household of one not receiving any Food Assistance Program (FAP) benefits. Exhibit A, pp 25-32.

4. Petitioner started new employment on December 6, 2021, and received earned income from December 30, 2021, through April 8, 2022. Exhibit A, pp 33-35.
5. On February 11, 2022, the Department received copies of Petitioner's paycheck that he received on January 14, 2022, and January 28, 2022. Exhibit A, pp 39-41.
6. Petitioner received paychecks in the gross monthly amounts of \$[REDACTED] on February 11, 2022, and \$[REDACTED] on February 25, 2022. Exhibit A, p 35.
7. Petitioner received paychecks in the gross bi-weekly amounts of \$[REDACTED] on March 11, 2022, and \$[REDACTED] on March 24, 2022. Exhibit A, p 35.
8. The gross monthly income limit for the Food Assistance Program (FAP) is 130% of the federal poverty level, which is a gross monthly income of \$[REDACTED] for a household of one. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2021), p 1.
9. On July 7, 2022, the Department notified Petitioner that he had received a \$345 overissuance of Food Assistance Program (FAP) benefits due to Department error in March of 2022. Exhibit A, p 57.
10. On July 7, 2022, the Department notified Petitioner that he had received a \$345 overissuance of Food Assistance Program (FAP) benefits due to client error in February of 2022. Exhibit A, p 69.
11. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, p 7.

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).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (April 1, 2022), p 12. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (April 1, 2022), 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.

On [REDACTED] [REDACTED] Petitioner applied for FAP benefits as a household of one not receiving any income. On July 22, 2021, the Department notified Petitioner that he was eligible for FAP benefits and that he was entitled to the maximum allotment of benefits for a household of one.

The hearing record supports a finding that Petitioner started employment on December 6, 2021, receiving his first paycheck on December 30, 2021.

Petitioner's representative argues that Petitioner reported his employment and income to the Michigan Rehabilitation Services (MRS), a bureau of the Department of Labor and Economic Opportunity (LEO). No evidence was presented that Petitioner reported his earned income from employment to the Michigan Department of Health and Human Services (MDHHS) in a timely manner as required by FAP policy. Therefore, the hearing record supports a finding that Petitioner's failure to report his income in a timely manner was due to inadvertent household error. See 7 CFR 273.18.

If Petitioner had reported his first paycheck in a timely manner, the Department would have redetermined his eligibility for ongoing FAP benefits by the first benefit period after January 31, 2022. On February 11, 2022, Petitioner's allotment of benefits for February had already been determined. Petitioner received FAP benefits totaling \$350 in February of 2022, as a household of one not receiving any income. Petitioner's actual income in February of 2022 was \$[REDACTED] which exceeded the \$1,396 limit for a household of one. Therefore, Petitioner received a \$350 overissuance of FAP benefits.

The hearing record supports a finding that Petitioner reported his employment and provided verification of his income on February 11, 2022. Due to Department error, the Department failed to apply this information towards Petitioner's eligibility for FAP benefits as required by policy. Instead, Petitioner continued to receive FAP benefits as a household of one not receiving any income in March of 2022. Petitioner's actual income in March of 2022 totaled \$[REDACTED]. Since the failure to apply Petitioner's March income towards his eligibility for FAP benefits was not due to Petitioner's failure to

report that income, Petitioner was entitled to a 20% earned income deduction for that month.

However, Petitioner's March income still exceeds the \$[REDACTED] gross monthly income limit for a household of one even with the earned income deduction is applied. Petitioner received \$350 of FAP benefits in March of 2022 that he was not eligible for, and the Department is required by federal regulations and Department policy to recoup that overissuance of benefits. 7 CFR 273.18(a).

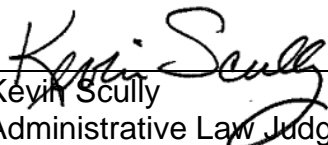
Recipients of FAP benefits that are eligible for any FAP benefits receive emergency supplemental benefits funded by the federal Consolidated Appropriations Act raising their total monthly allotment to the maximum available for that household. In this case, Petitioner was not eligible for any FAP benefits based on his income, and he was not eligible for the emergency supplements either.

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 \$350 overissuance of Food Assistance Program (FAP) benefits in February of 2022 due to inadvertent household error, and a \$350 overissuance of FAP benefits in March of 2022 due to Department 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

Jordanne Locke
Marquette County DHHS
234 West Baraga Ave.
Marquette, MI 49855

DHHS Department Rep.

Overpayment Research and Verification (ORV)
235 S Grand Ave
Suite 1011
Lansing, MI 48909

Interested Parties

Marquette County DHHS
MDHHS Recoupment
MOAHR

Via First Class Mail:

Petitioner

██████████
██████████
██████████, MI ██████████

Authorized Hearing Rep.

██████████
██████████
██████████, MI ██████████