



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: October 11, 2022
MOAHR Docket No.: 22-004017
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 October 5, 2022, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Dawn McKay.

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. On ██████████ 2021, the Department received Petitioner's application for Food Assistance Program (FAP) benefits where she reported to the Department that she was a permanent resident alien having entered to country on December 21, 2018. Exhibit A, pp 5-10.
2. Petitioner provided the Department with verification of her immigration status showing that she has been a permanent resident since October 14, 2020. Exhibit A, p 11.
3. Petitioner received Food Assistance Program (FAP) benefits totaling \$2,964 from August 1, 2021, through July 31, 2022. Exhibit A, pp 14-17.
4. On August 18, 2022, the Department notified Petitioner that she had received a \$2,964 overissuance of Food Assistance Program (FAP) benefits during the period of August 1, 2021, through July 31, 2022. Exhibit A, p 18.

5. On August 30, 2022, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

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.

Lawful permanent residents of the United States are not eligible for FAP benefits during the first five years in the country. Department of Health and Human Services Bridges Eligibility Manual (BEM) 225 (October 1, 2022), pp 1-40.

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).

On [REDACTED] 2021, the Department received Petitioner's application for FAP benefits. The hearing record supports a finding that Petitioner reported her immigration status to the Department as a permanent resident. Petitioner reported to the Department that she had not held this immigration status for more than 5 years, which made her ineligible for FAP benefits.

However, due to Department error, Petitioner's application for FAP benefits was approved, and Petitioner began receiving FAP benefits. Petitioner received FAP benefits totaling \$2,964, in addition to additional supplementary benefits she was granted in August and September of 2021. That additional 15% supplement is not recoupable by the Department because the source of the benefits was a different federal grant in response to the COVID-19 pandemic. Petitioner was not eligible for the \$2,964 of FAP benefits that she received, and the Department is required to recoup those benefits issued in error.


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 \$2,964

overissuance of Food Assistance Program (FAP) benefits that Petitioner was not eligible for due to her immigration status.

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

