



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 24, 2022
MOAHR Docket No.: 22-004079
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 19, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Jody Anderson.

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. On ██████████ ██████ 2021, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 59-64.
2. On September 22, 2021, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving a gross monthly income of \$948. Exhibit A, pp 51-58.
3. Petitioner's two children each received a Retirement, Survivors, and Disability Insurance (RSDI) payment of \$██████████ in October of 2021. Exhibit A, p 37.
4. In December of 2021, Petitioner received a Retirement, Survivors, and Disability Insurance (RSDI) payment of \$1,989, and each of her children received payments of \$1,491. Exhibit A, p 37.

5. Petitioner and each of her two children received Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amounts of \$[REDACTED] from January 1, 2022, through August 31, 2022. Exhibit A, p 37.
6. Petitioner received Food Assistance Program (FAP) benefits totaling \$6,300 from December 1, 2021, through August 31, 2022, but also received additional supplemental benefits. Exhibit A, pp 14-16.
7. Petitioner was an ongoing Food Assistance Program (FAP) recipient on July 5, 2022, the Department received her Redetermination (DHS-1010) form. Exhibit A, pp 45-49.
8. Petitioner reported on her July 15, 2022, Redetermination form that she was living with two children and each household member was receiving Retirement, Survivors, and Disability Insurance (RSDI) benefits. Exhibit A, p 47.
9. On August 15, 2022, the Department notified Petitioner that she had received a \$6,300 overissuance of Food Assistance Program (FAP) benefits during the period of December 1, 2021, through August 31, 2022. Exhibit A, pp 8-13.
10. On September 6, 2022, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 5-6.

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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include changes of household income. Department of Human Services Bridges Assistance Manual (BAM) 105 (April 1, 2022), pp 1-22.

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 (July 1, 2020), 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 (July 1, 2021), 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. 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).

Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2022, and the Department notified her that she was eligible for FAP benefits as a household of three people receiving a gross monthly income of \$948.

In October of 2021, the Petitioner's children each received RSDI payments of \$ [REDACTED] that were not reported to the Department in a timely manner. If Respondent had reported the income received by the household in October of 2021, the Department would have redetermined Petitioner's eligibility for ongoing FAP benefits by December of 2021.

In December of 2021, Respondent received a \$ [REDACTED] RSDI payment and each of her children received payments of \$1,491. The household continued to receive FAP benefits as a household of three receiving a gross monthly of \$ [REDACTED]. Petitioner and each of her two children received RSDI in the gross monthly amount of \$ [REDACTED] from January 1, 2022, through August 31, 2022.

Respondent received FAP benefits totaling \$6,300 from December 1, 2021, through August 31, 2022, as a household of three receiving a gross monthly income of \$ [REDACTED]. Petitioner's actual household gross income of \$ [REDACTED] is the total of all three household members RSDI benefits. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing total income by the \$177 standard deduction.

Petitioner's shelter expenses of \$1,345 consisted of her monthly mortgage payment of \$786.35 and the \$559 standard heat and utility deduction. Since these expenses were less than half of her adjusted gross income, Petitioner would not have been eligible for an excess shelter deduction.

With no excess shelter deduction, Petitioner's net income was the same as her adjusted gross income. A household of three with a net income of \$ [REDACTED] is not eligible for any FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2021), p 1.

On July 15, 2022, the Department received Petitioner's Redetermination form, and during the redetermination interview, Petitioner revealed the income her household was receiving. This reported increase of income caused Petitioner's FAP benefits to close, but the resulting closure of FAP benefits was delayed until the first benefit period after August 6, 2022.

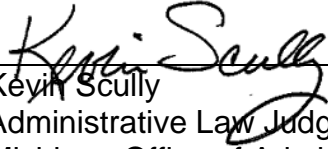
Petitioner was not eligible for any of the FAP benefits she received from December 1, 2021, through August 31, 2022, and she received a \$6,300 overissuance of FAP benefits. Petitioner received additional supplemental benefits during that period funded by the federal Consolidated Appropriations Act, which provided additional emergency supplemental benefits to address the temporary food needs due to COVID-19, and those additional supplements are not recoverable by the Department. The hearing record supports a finding that the Department removed those supplemental benefits from the debt.

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 \$6,300 overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup.

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
Lauren Dobbyn
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Interested Parties
Oscoda County DHHS
MDHHS Recoupment
L. Bengel
MOAHR

Via-First Class Mail :

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