



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: November 21, 2022
MOAHR Docket No.: 22-004485
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 November 17, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Erica Morant, Recoupment Specialist and Julie Luczak, Recoupment Specialist.

ISSUE

Did the Department properly determine that the Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup due to Agency and Client 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. The Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 71-88.
2. On July 5, 2022, the Recoupment Specialist got an Overissuance Referral, DHS 4701, of the Petitioner having unreported earnings from July 2021 to September 2021 due to a wage match from a first job at [REDACTED] for a period of employment of May 9, 2021, through August 29, 2021. Department Exhibit 1, pg. 89.
3. The Petitioner failed to report within 10 days as required by Department policy that she was employed and earning income from a second job at [REDACTED] which was revealed with a wage match with a first paycheck received on October 15, 2021. Department Exhibit 1, pgs. 60-70.

4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$3,765 during the time period of December 1, 2021, through June 30, 2022, due to Client error. Department Exhibit 1, pgs. 19-20, 22-36, and 42-55.
5. The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,506 during the time period of July 1, 2022, through August 31, 2022, due to Agency error. Department Exhibit 1, pgs. 21, 37-41, and 56-59.
6. The overissuance was due to Client and Agency error.
7. On September 6, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C. Department Exhibit 1, pgs. 7-18.
8. On September 19, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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, the Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 71-88. On July 5, 2022, the Recoupment Specialist got an Overissuance Referral, DHS 4701, of the Petitioner having unreported earnings from July 2021 to September 2021 due to a wage match from [REDACTED] for a period of employment of May 9, 2021, through August 29, 2021. Department Exhibit 1, pg. 89. The Petitioner failed to report within 10 days as required by Department policy that she was employed and earning income from [REDACTED] which was revealed with a wage match with a first paycheck received on October 15, 2021. Department Exhibit 1, pgs. 60-70. The Department determined that the Petitioner received a FAP overissuance in the amount of \$3,765 during the time period of December 1, 2021, through June 30, 2022, due to Client error. Department Exhibit 1, pgs. 19-20, 22-36, and 42-55. The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,506 during the time period of July 1, 2022, through August 31, 2022, due to Agency error. Department Exhibit 1, pgs. 21, 37-41, and 56-59.

The overissuance was due to Client and Agency error. On September 6, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C. Department Exhibit 1, pgs. 7-18. On September 19, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 115, 220, 700, 705, 715, 725, 800, and 802. BEM 500, 501, 550, 554, and 556.

During the hearing, the Petitioner stated that she has never had to report that she was employed and earning income where before her Department Caseworker has always been able to adjust her FAP benefits accordingly. However, this adjustment did not occur this time and the Petitioner received an overissuance of FAP benefits that she has to repay. The Petitioner was reminded that she had 10 days to report changes in income to the Department based on Department policy and procedures.

Only some of the Petitioner's previously unreported earned income resulted in a FAP overissuance for certain months. The Recoupment Specialist stated that the Petitioner did not report that she was employed and earning income within 10 days as required by Department policy where she received a first paycheck on October 15, 2021. The client error FAP overissuance was from December 1, 2021, through June 30, 2022. The Department failed to timely act on the wage verification resulting in an Agency error from July 1, 2022, through August 31, 2022. The Petitioner did spend the over issued FAP benefits. As a result, the Petitioner received an overissuance of FAP benefits that she wasn't entitled to of a total of \$5,271 that the Department is required to recoup due to Agency and Client error for the contested time period.

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 that the Petitioner received an overissuance of FAP benefits in the amount of \$5,271 for the contested time period of December 1, 2021, through August 31, 2022, that the Department is required to recoup.

Accordingly, the Department's decision is **AFFIRMED**.

CF/cc



Carmen G. Fahie
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-Electronic Mail :

Interested Parties

MDHHS-Livingston-Hearings
MDHHS-Recoupment-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

 MI