



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] MI [REDACTED]

Date Mailed: December 9, 2022
MOAHR Docket No.: 22-005098
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 December 1, 2022, from Lansing, Michigan. [REDACTED] the Petitioner, appeared in her own behalf. The Department of Health and Human Services (Department) was represented by Catrice Legacy and Julie Luczak, Recoupment Specialists (RS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-118.

ISSUE

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that he was not eligible for and 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. From November 1, 2016 to March 31, 2017, Petitioner received FAP benefits totaling \$2,281.00. (Exhibit A, p. 11)
2. From November 1, 2016 to March 31, 2017, Petitioner received Family Independence Program (FIP) benefits of [REDACTED] per month. (Exhibit A, pp. 23-25)

3. On [REDACTED] 2016, Petitioner submitted an Assistance Application for FAP for herself and her two daughters, including [REDACTED] (AD). Petitioner reported that no household member had employment income. (Exhibit A, pp. 96-117)
4. On July 18, 2016, a Notice of Case Action was issued to Petitioner approving FAP for a household size of three, including A.D., from August 1, 2016 to June 30, 2017 in the amount of \$511.00 per month. A budget summary was included showing no earned income was included in the FAP budget. Petitioner was reminded of the responsibility to report changes, including changes in household income, within 10 days. A blank Change Report form was included. (Exhibit A, pp. 90-95)
5. On August 23, 2016, a Notice of Case Action was issued to Petitioner approving FAP for a household size of three, including A.D., from October 1, 2016 to June 30, 2017 in the amount of \$377.00 per month. A budget summary was included showing no earned income was included in the FAP budget. Petitioner was reminded of the responsibility to report changes, including changes in household income, within 10 days. A blank Change Report form was included. (Exhibit A, pp. 83-89)
6. On September 14, 2016, a Notice of Case Action was issued to Petitioner approving FAP for a household size of three, including A.D., from October 1, 2016 to June 30, 2017 in the amount of \$374.00 per month. A budget summary was included showing no earned income was included in the FAP budget. Petitioner was reminded of the responsibility to report changes, including changes in household income, within 10 days. (Exhibit A, pp. 79-82)
7. On December 29, 2016, a Notice of Case Action was issued to Petitioner approving FAP for a household size of three, including A.D., from January 1, 2017 to June 30, 2017 in the amount of \$511.00 per month. A budget summary was included showing no earned income was included in the FAP budget. Petitioner was reminded of the responsibility to report changes, including changes in household income, within 10 days. (Exhibit A, pp. 75-78)
8. On February 24, 2017, a Notice of Case Action was issued to Petitioner approving FAP for a household size of three, including A.D., from April 1, 2017 to June 30, 2017 in the amount of \$166.00 per month. A budget summary was included showing earned income of [REDACTED] was included in the FAP budget. Petitioner was reminded of the responsibility to report changes, including changes in household income, within 10 days. (Exhibit A, pp. 71-74)
9. Household member AD had employment income from [REDACTED] [REDACTED] from August 26, 2016 to March 24, 2017. (Exhibit A, pp. 26-68)

10. The Department determined that Petitioner was overissued FAP benefits from November 1, 2016 to March 31, 2017 due to Petitioner's failure to report AD's employment income from [REDACTED]. (Exhibit A, pp. 12-22)
11. On October 13, 2022, the Department sent Petitioner a Notice of Overissuance instructing her that a \$1,934.00 overissuance of FAP benefits occurred from November 1, 2016 to March 31, 2017 due to client error and would be recouped. (Exhibit A, pp. 5-10)
12. On October 21, 2022, the Department received Petitioner's verbal request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, p. 3)

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.

Pursuant to BAM 105, clients have a responsibility to cooperate with the Department in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, April 1, 2016, p. 9. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. This includes any changes with household income. (BAM 105, pp. 11-13)

For FAP, the Department will act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220, July 1, 2016, p. 7. A pended 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. BAM 700, October 1, 2018, p. 1. An agency error is caused by incorrect action (including delayed or no action) by MDHHS staff or department processes, such as when available information was not used. Agency errors are not pursued if the estimated amount is less than \$250 per program. BAM 700, p. 5. A client error occurs when the client received more benefits than they were entitled to

because the client gave incorrect or incomplete information to the department. BAM 700 p. 7.

In this case, the Department determined that a FAP client error overissuance occurred from November 1, 2016 to March 31, 2017 due to Petitioner's failure to report household member AD's employment income from [REDACTED] (Exhibit A, pp. 12-22)

Petitioner testified that there was a second case number, [REDACTED] Petitioner explained that her case kept getting bounced between two case numbers and between [REDACTED] County and [REDACTED] County. Petitioner received so much paperwork from the Department. Petitioner asserted that she repeatedly asked for help from the Department to straighten this out, but she did not receive any help. (Petitioner Testimony)

The RS testified that any documentation Petitioner submitted would follow her individual ID number, rather than a case number. If there are multiple case numbers, the documentation would be uploaded to each case. During the relevant time period, there was nothing regarding FAP and nothing uploaded to the other case number. There were no case comments on the second case number from February 2016 to February 2018 in regard to any income. (RS Testimony)

Petitioner testified that she no longer has all of her documentation. Petitioner also noted that the budget summaries do not reflect any housing costs, such as property taxes. (Petitioner Testimony) As discussed, if Petitioner disagreed with the FAP eligibility determinations, such as the lack of housing costs in the budget summaries, Petitioner had 90 days from each written notice of case action to contest the determinations. (Exhibit A, pp. 71-95) The RS also noted that the Department had requested further verification of the property taxes when Petitioner's eligibility for FAP was being determined. (RS Testimony)

The above cited BAM 700 policy requires the Department to recoup the overissuance when a client group receives more benefits than it is entitled to receive. This includes overissuances caused by both agency errors and client errors when the amount is at least \$250 per program.

Overall, the evidence supports the Department's determination that Petitioner received an overissuance of FAP benefits from November 1, 2016 to March 31, 2017. The five Notices Of Case Action issued between July 18, 2016 and February 24, 2017 were from [REDACTED] County, [REDACTED] County, and [REDACTED] County. All notices reflected a case number of [REDACTED] (Exhibit A, pp. 71-95) Accordingly, there is some support in the records for Petitioner's testimony that her case was bounced between counties. However, there was no evidence establishing that Petitioner timely reported the employment income from household member A.D. to the Department, at any county office, or under any case number.

Petitioner did not report timely employment income for household member AD from [REDACTED] When the verified income was utilized to redetermine


eligibility for the FAP group, it was determined that the FAP group was not eligible for the full amount of FAP benefits issued. (Exhibit A, pp. 6 and 12-22) The Department properly sought recoupment of a \$1,934.00 overissuance of FAP benefits from Petitioner.

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 the \$1,934.00 overissuance of FAP benefits from November 1, 2016 to March 31, 2017 due to client error, which must be recouped.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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 :

DHHS
Rose Ward
Newaygo County DHS
1018 Newell
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MDHHS-Newaygo-Hearings@michigan.gov

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Interested Parties
BSC3
M. Holden
D. Sweeney

Via First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
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