



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 5, 2022
MOAHR Docket No.: 22-005102
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

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 December 1, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Mary Peterson.

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. Petitioner was an ongoing Food Assistance Program (FAP) recipient as a household of one when the Department received her Redetermination (DHS-1010) form on March 26, 2019, where she reported that she was living with her mother but that they did not purchase and prepare food together. Exhibit A, pp 7-14.
2. On April 4, 2019, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of one. Exhibit A, pp 15-20.
3. On December 7, 2019, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of one. Exhibit A, pp 21-25.

4. On March 9, 2020, the Department received Petitioner's Mid-Certification Contact Notice (DHS-2240-A) where Petitioner reported that there had been no changes to the persons living in her household. Exhibit A, p 26.
5. On March 23, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of one. Exhibit A, pp 30-34.
6. On October 2, 2020, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits as a household of one. Exhibit A, pp 35-39.
7. Department records indicate that during an eligibility interview conducted on November 30, 2020, that Petitioner reported that she was married on [REDACTED] [REDACTED] [REDACTED] and that she lives with her husband part time and with her mother part time. Exhibit A, pp 40-42.
8. On November 30, 2020, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of January 1, 2021, based on the combined income of herself and her husband. Exhibit A, pp 43-47.
9. Petitioner received Food Assistance Program (FAP) benefits totaling \$[REDACTED] as a household of one from September 1, 2020, through December 31, 2020. Exhibit A, p 54.
10. On October 17, 2022, the Department notified Petitioner that she had received an \$[REDACTED] overissuance of Food Assistance Program (FAP) benefits from September 1, 2020, through December 31, 2020. 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, pp 4-5.

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).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Spouses that live together must be in the same FAP benefit group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2022), p 1.

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 (October 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.

Petitioner was an ongoing FAP recipient as a household of one on [REDACTED] [REDACTED] [REDACTED] when she married her spouse. Department records indicate that on November 30, 2020, Respondent reported that she was living with her husband part time, but also staying with her mother part time. Petitioner had reported that she did not purchase and prepare food with her mother. Policy requires that spouses that live together be placed in the same FAP benefit group and regardless of whether they purchase and prepare food together.

Petitioner testified that she reported her marriage to the Department in a timely manner, but she was unable to present any evidence other than her testimony supporting this claim. On November 30, 2020, Petitioner reported to the Department that she was living with her spouse part-time, and that she was caring for her mother at the mother's home part-time. The hearing record supports a finding that Petitioner went from living with her mother full time to living with her mother part time, and the failure to report her marriage was inadvertent household error.

The hearing record supports a finding that if Petitioner had reported her marriage in a timely manner, then the Department would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after August 19, 2020. Petitioner did not dispute that as a household of two, that the combined income of Petitioner and her spouse made the household ineligible for any FAP benefits. Petitioner received FAP benefits

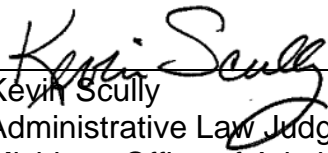
totaling \$■■■■ from September 1, 2020, through December 31, 2020. Petitioner was not eligible for any of those benefits based on the combined incomes of herself and her spouse. Therefore, the Department has established that Petitioner received a \$816 overissuance of FAP benefits.

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 \$■■■■ 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

Garilee Janofski
Gratiot County DHHS
201 Commerce Dr
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**MDHHS-Gratiot-
Hearings@michigan.gov**

Interested Parties

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Recoupment
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DHHS Department Rep.

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Via-First Class Mail :

Petitioner

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