



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: January 6, 2023
MOAHR Docket No.: 22-005506
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 December 21, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Eugene Brown.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner had 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 ██████████ ██████████ the Department received Petitioner's Renew Benefits form where she reported that she was employed and receiving child support. Exhibit A, pp 60-63.
2. On January 8, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving earned income in the gross monthly amount of \$██████████ and unearned income in the gross monthly amount of \$430. Exhibit A, pp 26-30.
3. On July 9, 2020, the Department received Petitioner's Renew Benefits form where she reported that her employment had ended, and that child support was the only source of income for the household. Exhibit A, pp 64-65.

4. On July 27, 2020, the Department received Petitioner's Renew Benefits form where she reported that her employment had ended, and that child support was the only source of income for the household. Exhibit A, pp 66-67.
5. On August 7, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving no earned income and unearned income in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 31-36.
6. On August 8, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving no earned income and unearned income in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 37-41.
7. On August 22, 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving no earned income and unearned income in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 42-46.
8. Petitioner received unemployment compensation benefits from May 6, 2020, through September 7, 2021. Exhibit A, pp 69-70.
9. Petitioner received Food Assistance Program (FAP) benefits totaling \$1,018 from June 1, 2020, through July 31, 2020. Exhibit A, p 20.
10. On November 10, 2022, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that she had received a \$1,018 overissuance of Food Assistance Program (FAP) benefits that the Department would recoup. Exhibit A, pp 10-15.
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).

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).

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 benefits on January 8, 2020, as a household of three receiving earned income in the gross monthly amount of \$[REDACTED] and unearned income in the gross monthly amount of \$430. On July 9, 2020, Petitioner notified the Department that her employment had ended, and that child support was her only source of income.


The hearing record supports a finding that Petitioner received unemployment compensation benefits from May 6, 2020, through September 7, 2021. If Petitioner had reported the unemployment compensation benefits that she received on May 6, 2020, the Department would have redetermined her eligibility for ongoing FAP benefits by the first benefit period after June 7, 2020. Petitioner received FAP benefits as a household of three in July and August of 2020 based only on the child support that Petitioner had reported. If Petitioner had reported her unemployment compensation benefits, the Department would have closed her FAP benefits because her gross household income had exceeded the limit for her household to receive any 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 \$1,018 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
Kristina Etheridge
Calhoun County DHHS
190 East Michigan
Battle Creek, MI 49016
**MDHHS-Calhoun-
Hearings@michigan.gov**

Interested Parties
Calhoun County DHHS
MDHHS Recoupment
L. Bengel
MOAHR

DHHS Department Rep.
Overpayment Research and
Verification (ORV)
235 S Grand Ave
Lansing, MI 48909
**MDHHS-RECOUPMENT-
HEARINGS@Michigan.gov**

Via-First Class Mail :

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