GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS DIRECTOR



Date Mailed: March 17, 2023 MOAHR Docket No.: 23-000716

Agency No.: Petitioner:

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 2023, from Lansing, Michigan. The Department of Health and Human Services (Department) was represented by Eugene Brown, Recoupment Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-70.

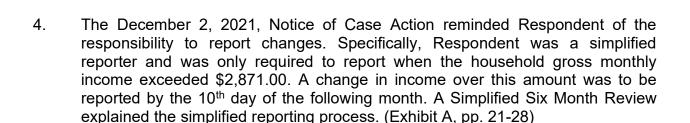
<u>ISSUE</u>

Did the Department properly determine that Petitioner received Food Assistance Program (FAP) benefits that she was not eligible for and must be recouped?

FINDINGS OF FACT

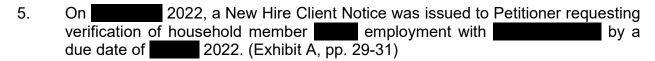
The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

- 1. From 2022 to 2022, Petitioner received FAP benefits totaling \$5,788.00. (Exhibit A, pp. 7 and 19-20)
- 2. On 2021, Petitioner submitted an Assistance Application for FAP, healthcare, and state emergency relief for the household of four, including Petitioner's daughter (Exhibit A, pp. 56-65)
- 3. On 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included

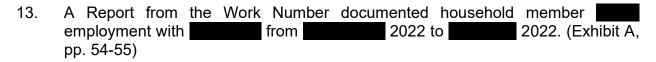


pp. 21-26)

showing earned income of was included in the FAP budget. (Exhibit A,



- 6. On 2022, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included showing earned income of was included in the FAP budget. (Exhibit A, pp. 32-36)
- 7. The April 20, 2022, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$2,871.00. A change in income over this amount was to be reported by the 10th day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 32-38)
- 8. On 2022, Petitioner submitted a Renew Benefits for the household of four. (Exhibit A, pp. 66-67)
- 9. On September 6, 2022, a Redetermination form was sent to Petitioner with a due date of September 26, 2022. An Appointment was also scheduled for October 3, 2022. (Exhibit A, pp. 39-45)
- 10. On October 3, 2022, a Notice of Missed Appointment was issued to Petitioner letting Petitioner know it was her responsibility to reschedule the interview and/or return the redetermination packet before October 31, 2022. (Exhibit A, p. 46)
- 11. On October 25, 2022, a Notice of Case Action was issued to Petitioner indicating household member was registered for work due to participation in FAP. A budget summary was included showing earned income of was included in the FAP budget. (Exhibit A, pp. 47-51)
- 12. The October 25, 2022, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$3,007.00. A change in income over this amount was to be reported by the 10th day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 47-53)



- 14. A Report from the Work Number documented Respondent's employment with since 2022. (Exhibit A, pp. 69-70)
- The Department determined that Petitioner was overissued FAP benefits from 2022 to 2022 due to the Department failure to address that Petitioner did not return the New Hire Client Notice by the (Exhibit A, pp. 1 and 7-9)
- On November 3, 2022, the Department sent Petitioner a Notice of Overissuance instructing her that a overissuance of FAP benefits occurred from 2022 to 2022 due to agency error and would be recouped. (Exhibit A, pp. 10-15)
- 17. On February 3, 2022, the Department received Petitioner's request for a hearing protesting the recoupment of 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) [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. This includes completion of necessary forms. Clients must completely and truthfully answer all questions on forms and in interviews. BAM 105, April 1, 2022, p. 9. Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. This includes any changes with assets. (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, April 1, 2022, 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. 13.

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.

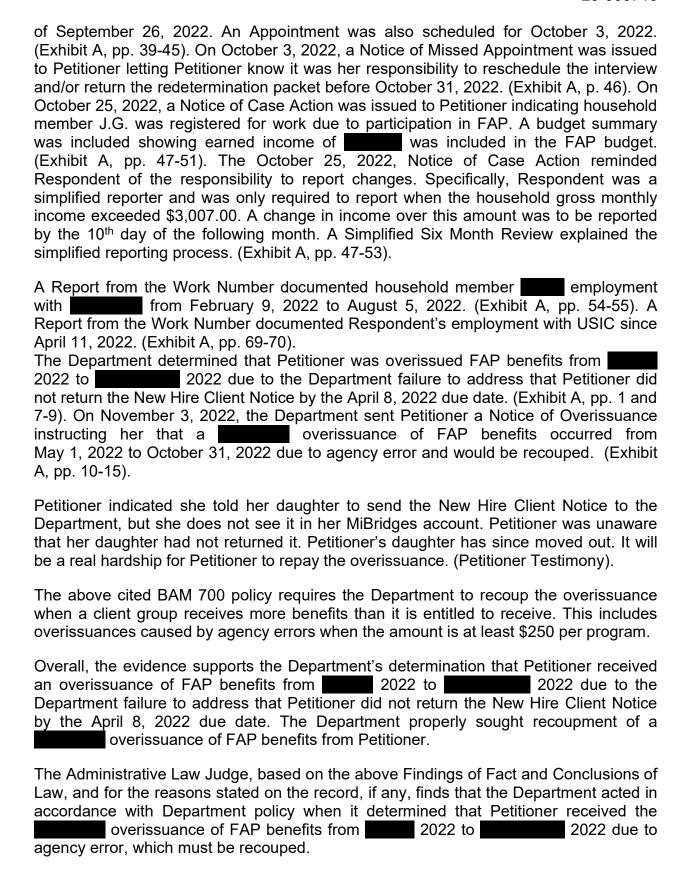
In this case, the Department determined that a FAP agency error overissuance occurred from May 1, 2022 to October 31, 2022 due to the Department failure to address that Petitioner did not return the New Hire Client Notice by the April 8, 2022 due date. (Exhibit A, pp. 1 and 7-9).

On November 5, 2021, Petitioner submitted an Assistance Application for FAP, healthcare, and state emergency relief for the household of four, including Petitioner's daughter B.G. (Exhibit A, pp. 56-65).

On December 2, 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included showing earned income of was included in the FAP budget. (Exhibit A, pp. 21-26). The December 2, 2021, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$2,871.00. A change in income over this amount was to be reported by the 10th day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 21-28).

On March 29, 2022, a New Hire Client Notice was issued to Petitioner requesting verification of household member employment with by a due date of April 8, 2022. (Exhibit A, pp. 29-31).

The Department asserts that the New Hire Client Notice was not returned. However, the Department erred by continuing to process Petitioner's FAP case. On April 20, 2022, a Notice of Case Action was issued to Petitioner approving FAP for a household size of four. A budget summary was included showing earned income of was included in the FAP budget. (Exhibit A, pp. 32-36). The April 20, 2022, Notice of Case Action reminded Respondent of the responsibility to report changes. Specifically, Respondent was a simplified reporter and was only required to report when the household gross monthly income exceeded \$2,871.00. A change in income over this amount was to be reported by the 10th day of the following month. A Simplified Six Month Review explained the simplified reporting process. (Exhibit A, pp. 32-38). On April 30, 2022, Petitioner submitted a Renew Benefits for the household of four. (Exhibit A, pp. 66-67). On September 6, 2022, a Redetermination form was sent to Petitioner with a due date



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

Kristina Etheridge Calhoun County DHHS 190 East Michigan Battle Creek, MI 49016

MDHHS-Calhoun-Hearings@michigan.gov

DHHS Department Rep.

Overpayment Research and Verification (ORV) 235 S Grand Ave

Lansing, MI 48909

MDHHS-RECOUPMENT-HEARINGS@Michigan.gov

Interested Parties

BSC 3 M Holden D Sweeney MOAHR

Via First Class Mail: Petitioner

