



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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Date Mailed: April 27, 2023
MOAHR Docket No.: 23-000892
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 April 18, 2023, from Lansing, Michigan. ██████████ the Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Kathleen Zewatsky, Recoupment Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-64.

ISSUE

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 June, July, September, and October 2021, Petitioner received FAP benefits subject to recoupment totaling \$941.00. (Exhibit A, pp. 14-17)
2. On September 18, 2020, Petitioner submitted a Redetermination for FAP. Petitioner reported income from Retirement Survivors Disability Insurance (RSDI) benefits and ██████████ (Exhibit A, pp. 57-61)
3. On October 9, 2020, a Notice of Case Action was issued to Petitioner approving FAP for the period of November 1, 2020 to October 31, 2021. A budget summary was included showing earned income of ██████████ and unearned income of ██████████ was included in the FAP budget. (Exhibit A, pp. 36-40)

4. The Notice of Case Action notified Petitioner of her responsibility to report changes. Specifically, Petitioner was a simplified reporter (SR) and was required to report when the household gross monthly income exceeded \$1,383.00 (Exhibit A, p. 37)
5. On October 9, 2020, a Simplified Six Month Review was issued to Petitioner, further explaining the process. This advised that instead of coming in for a review every six months, Petitioner would receive a Semi-Annual Contact Report form in the mail to complete. Petitioner would be required to provide information about changes in address and housing expense, household members, child support payments, and household income. (Exhibit A, pp. 41-42)
6. On March 12, 2021, Petitioner submitted a Semi-Annual Contact Report. Petitioner reported employment income of [REDACTED] monthly. (Exhibit A, pp. 54-56)
7. On March 23, 2021, a Notice of Case Action was issued to Petitioner approving FAP for the period of May 1, 2021 to October 31, 2021. A budget summary was included showing earned income of [REDACTED] and unearned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 29-33)
8. The Notice of Case Action notified Petitioner of her responsibility to report changes. Specifically, Petitioner was a SR and was required to report when the household gross monthly income exceeded \$1,383.00 (Exhibit A, p. 30)
9. On March 23, 2021, a Simplified Six Month Review was issued to Petitioner, further explaining the process. This advised that instead of coming in for a review every six months, Petitioner would receive a Semi-Annual Contact Report form in the mail to complete. Petitioner would be required to provide information about changes in address and housing expense, household members, child support payments, and household income. (Exhibit A, pp. 34-35)
10. A report from The Work Number verified Petitioner's earnings from [REDACTED] during the overissuance period. (Exhibit A, pp. 46-48)
11. On September 15, 2021, Petitioner submitted a Redetermination. (Exhibit A, pp. 49-53)
12. The Department determined that Petitioner was overissued FAP benefits for June, July, September, and October 2021 due to client error of not reporting when the gross monthly household income exceeded the applicable simplified reporting limit. (Exhibit A, pp. 18-28)
13. On January 1, 2023, the Department sent Petitioner a Notice of Overissuance instructing her that a \$941.00 overissuance of FAP benefits occurred from June 1, 2021 to October 31, 2021 due to client error and would be recouped. (Exhibit A, pp. 8-13)

14. On February 16, 2023, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 4-6)

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, July 1, 2020, p. 9. Generally, Clients must also report changes in circumstance that potentially affect eligibility or benefit amount within 10 days. This includes any changes with income. BAM 105, pp. 11-13.

Simplified reporting households must report when the household monthly income exceeds the monthly gross income limit for its household size. 7 CFR 273.12(a)(5)(ii)(G)(1). Similarly, Department policy regarding FAP simplified reporting states:

Simplified reporting groups are required to report **only** when the group's actual gross monthly income (**not** converted) exceeds the SR income limit for their group size. **No** other change reporting is required.

Exception: Simplified Reporting groups must report lottery and gambling winnings of \$3,750 or more.

If the group has an increase in income, the group must determine their total gross income at the end of that month. If the total gross income exceeds the group's SR income limit; see RFT 250, the group must report this change to their specialist by the 10th day of the following month, or the next business day if the 10th day falls on a weekend or holiday. Once assigned to SR, the group remains in SR throughout the current benefit period unless they report changes at their semi-annual contact or redetermination that make them ineligible for SR.

Note: Changes known to the department must be acted on even though the client is required to report only if the group's total gross income exceeds the SR income limit for their group size.

SR does not change reporting requirements for any other program.

BAM 200, January 1, 2021, p. 1.

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, January 1, 2021, pp. 7-8.

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.

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.

In this case, the Department determined that a FAP OI occurred due to client error. Specifically, Petitioner failed to report when household income exceeded the SR limit, resulting in an overissuance of FAP benefits for June, July, September, and October 2021. The combination of income from employment with [REDACTED] and RSDI benefits caused Petitioner to exceed income limits for the FAP program.

On September 18, 2020, Petitioner submitted a Redetermination for FAP. Petitioner reported income from RSDI and [REDACTED] (Exhibit A, pp. 57-61). On October 9, 2020, a Notice of Case Action was issued to Petitioner approving FAP for the period of November 1, 2020 to October 31, 2021. A budget summary was included showing earned income of [REDACTED] and unearned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 36-40). The Notice of Case Action notified Petitioner of her responsibility to report changes. Specifically, Petitioner was a SR and was required to report when the household gross monthly income exceeded \$1,383.00 (Exhibit A, p. 37).

On March 12, 2021, Petitioner submitted a Semi-Annual Contact Report. Petitioner reported employment income of [REDACTED] monthly. (Exhibit A, pp. 54-56). On March 23, 2021, a Notice of Case Action was issued to Petitioner approving FAP for the period of May 1, 2021 to October 31, 2021. A budget summary was included showing earned income of [REDACTED] and unearned income of [REDACTED] was included in the FAP budget. (Exhibit A, pp. 29-33). The Notice of Case Action notified Petitioner of her responsibility to report changes. Specifically, Petitioner was a SR and was required to report when the household gross monthly income exceeded \$1,383.00 (Exhibit A, p. 30).

A report from The Work Number verified Petitioner's earnings from [REDACTED] during the overissuance period. (Exhibit A, pp. 46-48).

On September 15, 2021, Petitioner submitted a Redetermination. Petitioner reported income from [REDACTED] of [REDACTED] every two weeks. (Exhibit A, pp. 49-53).

The Department determined that Petitioner was overissued FAP benefits for June, July, September, and October 2021 due to Petitioner's failure to report when the gross monthly household income exceeded the simplified reporting limit. (Exhibit A, pp. 18-28).

Petitioner testified that she reported her job at [REDACTED] and tried to do the right thing. (Petitioner Testimony). It appears that the initial employment income from [REDACTED] did not cause Petitioner to exceed the SR limit. However, when Petitioner's income from [REDACTED] increased, this cause Petitioner to exceed the SR limit. There was no evidence that Petitioner was keeping track of the gross monthly income and reported when it exceeded the applicable SR limit of \$1,383.00.

As discussed, the income verification showed what Petitioner received each pay date. The combination of employment income and RSDI exceeded income limits for the FAP program for June, July, September, and October 2021. (Exhibit A, pp. 17-28 and 46-48)

Regardless of whether the error was a mistake or intentional, BAM 700 is clear that 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.


Overall, the failure to report the changes with the household's income resulted in a \$941.00 overissuance of FAP benefits for June, July, September, and October 2021, based on the available information.

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 \$941.00 overissuance of FAP benefits that 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

Tamara Little
Jackson County DHS
301 E. Louis Glick Hwy.
Jackson, MI 49201

MDHHS-Jackson-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

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail :

Petitioner

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