



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: April 21, 2023
MOAHR Docket No.: 23-001160
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 April 12, 2023, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Jody Anderson, Recoupment Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-69.

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 June 1, 2022 to September 30, 2022, Petitioner received FAP benefits in the amount of \$250.00 per month. (Exhibit A, pp. 14-15)
2. Petitioner applied for FAP on [REDACTED] 2021. (Exhibit A, pp. 59-68)
3. On December 21, 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of one for January 2022 through November 2022. 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 with income within 10 days. A blank Change Report form was included. (Exhibit A, pp. 51-58)

4. An Earnings Request documented Petitioner's return to work at [REDACTED] after a layoff with a first pay on April 18, 2022. (Exhibit A, pp. 30-38)
5. On September 29, 2022, Petitioner called the Department to report an address change. (Exhibit A, p. 42-43)
6. On October 17, 2022, Petitioner returned a Redetermination form and reported an expected upcoming layoff as he is a seasonal worker. Petitioner also reported changes with housing expenses. (Exhibit A, pp. 46-50)
7. The Department determined that Petitioner was overissued FAP benefits from June 1, 2022 to September 30, 2022 due to the Petitioner's failure to report his income from returning to work. (Exhibit A, pp. 16-29)
8. On February 27, 2023, the Department sent Petitioner a Notice of Overissuance instructing him that a \$1,000.00 overissuance of FAP benefits occurred from June 1, 2022 to September 30, 2022 due to client error and would be recouped. (Exhibit A, pp. 8-13)
9. On March 6, 2023, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 5-6)

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, October 1, 2021, p. 9. 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)

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, November 1, 2021, 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. 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 client error overissuance occurred from June 1, 2022 to September 30, 2022 due to the Petitioner's failure to report his income from returning to work. (Exhibit A, pp. 16-29).

On December 21, 2021, a Notice of Case Action was issued to Petitioner approving FAP for a household size of one for January 2022 through November 2022. 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 with income within 10 days. A blank Change Report form was included. (Exhibit A, pp. 51-58).

An Earnings Request documented Petitioner's return to work at [REDACTED] after a layoff with a first pay on April 18, 2022. (Exhibit A, pp. 30-38). The case comments do not show that Petitioner reported this change in household income. (Exhibit A, pp. 42-43). The Department determined that Petitioner was overissued FAP benefits from June 1, 2022 to September 30, 2022 due to the Petitioner's failure to report his income from returning to work. (Exhibit A, pp. 16-29).

Petitioner testified that in past years, the FAP benefits automatically cut off when he returned to work. Petitioner noted that the Department only approved him for \$20.00 in FAP benefits and the \$230.00 was from COVID emergency allotments. Petitioner asserted that he should only have to repay the \$20.00 per month to the Department. (Petitioner Testimony) The clarification the Department received from the federal agency, Food and Nutrition Services (FNS), directs the state agency to recoup the emergency allotments when a household received benefits but was not eligible to receive any. (Exhibit A, pp. 44-45)

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 either agency errors or 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 June 1, 2022 to September 30, 2022 due to the Petitioner's failure to report his income from returning to work. (Exhibit A, pp. 16-29) The Department properly sought recoupment of a \$1,000.00 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 \$1,000.00 overissuance of FAP benefits from June 1, 2022 to September 30, 2022 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

Michelle Morley
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715 S Loxley Rd
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DHHS Department Rep.

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**MDHHS-RECOUPMENT-
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Interested Parties

BSC1
M Holden
D Sweeney
MOAHR

Via First Class Mail :

Petitioner

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