



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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[REDACTED], MI 48219

Date Mailed: May 23, 2023
MOAHR Docket No.: 23-002342
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 18, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Minnie Egbuonu, Eligibility Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled 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 FAP recipient between the period of July 1, 2021, through May 31, 2022 (Exhibit A, pp. 14-17).
2. On February 14, 2021, the Department received a Wage Match Client Notice indicating Petitioner's husband had income from employment.
3. On March 20, 2023, the Department sent Petitioner a Notice of Overissuance informing her that she was overissued FAP benefits for the period of July 1, 2021, through May 31, 2022, in the amount of \$7,878 due to Agency error (Exhibit A, pp. 7-8).

4. On April 20, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner submitted an application for FAP benefits on December 23, 2020. Petitioner reported that her husband had been laid-off from work. On February 14, 2021, a Wage Match Client Notice was generated. However, the Department did not act on the notice. Petitioner's husband had income from employment during the third and fourth quarters of 2021, as well as the first and second quarters of 2022. Although Petitioner did not report the income to the Department, the Department categorized the overissuance as an agency error, as the Department did not timely act on the Wage Match Notice.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

Despite the information provided by the Wage Match, the Department did not include Petitioner's husband's earned income in the calculation of Petitioner's FAP benefit amount throughout the period of July 1, 2021, through May 31, 2022. As such, the Department testified that Petitioner's FAP benefit amount was improperly calculated, as the earned income from Petitioner's husband's employment should have been included in Petitioner's FAP budget. The Department testified that Petitioner was overissued FAP benefits for the period of July 1, 2021, through May 31, 2022, in the amount of \$7,878 due to Agency error.

When a client group receives more benefits that it is entitled to receive, the Department **must** attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes.

BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8.

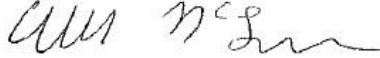
The Department presented a Wage History report showing Petitioner's husband's wages during the period of July 1, 2021, through May 31, 2022 (Exhibit A, pp. 48-49). The Department also presented Petitioner's FAP budget during the overissuance period showing that no earned income was included in the calculation of Petitioner's FAP benefit eligibility. As such, the Department correctly determined Petitioner's husband's earned income was not properly budgeted, and she was overissued FAP benefits as a result of Agency error.

The Department presented Petitioner's Benefit Summary, which showed she was issued \$7,878 in FAP benefits for the period of July 1, 2021, through May 31, 2022 (Exhibit A, pp. 14-16). The Department presented overissuance budgets for the same time period (Exhibit A, pp. 22-43). The Department recalculated Petitioner's FAP benefits by adding Petitioner's husband's earned income for each month as calculated by the Wage History. The budgets show that during the period of July 1, 2021, through May 31, 2022, Petitioner was not entitled to any FAP benefits. Therefore, the Department established it properly determined Petitioner was overissued FAP benefits in the amount of \$7,878.

DECISION AND ORDER

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 Petitioner received an overissuance of FAP benefits in the amount of \$7,878. Accordingly, the Department's decision is **AFFIRMED**.

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Ellen McLemore
Administrative Law Judge

