



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: July 7, 2023
MOAHR Docket No.: 23-003211
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

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 July 6, 2023, from Lansing, Michigan. Petitioner was represented by [REDACTED] [REDACTED] and Petitioner testified on her own behalf. The Department was represented by LaCre Barnett.

ISSUE

Did the Department of Health and Human Services (Department) properly initiate recoupment of an established overissuance of Food Assistance Program (FAP) benefits?

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 October 19, 2022, the Department requested a Disqualification Hearing to establish an Intentional Program Violation (IPV).
2. On April 20, 2023, an administrative hearing was held, but Petitioner did not attend the hearing.
3. On May 17, 2023, Michigan Office of Administrative Hearings and Rules (MOAHR) issued a hearing decision finding that Petitioner had received an overissuance of Food Assistance Program (FAP) benefits due to Petitioner's intentional failure to report household income.
4. On May 18, 2023, the Department notified Petitioner that she was disqualified from the Food Assistance Program (FAP) benefits and that the Department

would initiate recoupment of a \$9,217 overissuance of Food Assistance Program (FAP) benefits.

5. On May 30, 2023, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits.

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).

On March 16, 2023, a notice of hearing was mailed to Petitioner at her mailing address of record, and it was not returned by the US Postal Service as undeliverable. The hearing was held in her absence pursuant 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code, R 400.3178(5). The result of that hearing was that Petitioner was found to be responsible for an Intentional Program Violation (IPV). Petitioner failed to appeal that hearing decision in a timely manner.

Petitioner argues that a member of her benefit group was not living in her household during the period of alleged overissuance. Petitioner offered evidence that this person was issued an identification in December of 2022 that shows a different address than Petitioner. This evidence does not prove where this person was living during the overissuance, which was July 1, 2020, through July 31, 2021. Petitioner's testimony is inconsistent with the evidence from the disqualification hearing that shows that the household member had reported Petitioner's address to his employer as his home address.

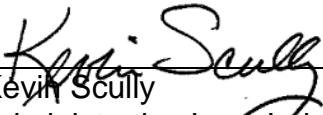
Petitioner failed to offer evidence that could affect the outcome of the original hearing decision, and she failed to allege a misapplication of Department policy.

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 an overissuance of Food Assistance Program (FAP) benefits.

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
Kimberly Kornoelje
Kent County DHHS
121 Franklin SE
Grand Rapids, MI 49507
**MDHHS-Kent-
Hearings@michigan.gov**

Interested Parties
Kent County DHHS
MDHHS Recoupment
N. Stebbins
MOAHR

DHHS Department Rep.
Overpayment Establishment Section
(OES)
235 S Grand Ave Ste 811
Lansing, MI 48909
**MDHHS-RECOUPMENT-
HEARINGS@Michigan.gov**

Via-First Class Mail :

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

Authorized Hearing Rep.
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]