



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 10, 2024
MOAHR Docket No.: 24-004808
Agency No.: [REDACTED]
Petitioner: [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 May 30, 2024, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Anna Peterson.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received a \$8,335 overissuance of Food Assistance Program (FAP) benefits that the Department is required 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. On October [REDACTED] 2019, Petitioner was an ongoing recipient of Food Assistance Program (FAP) benefits as a household of three people including herself and her two children, when the Department received her Semi-Annual Contact Report where she reported that her household income and not increased by more than \$100 from the \$[REDACTED] that was being applied towards her eligibility for Food Assistance Program (FAP) benefits. Exhibit A, pp 148-150.
2. On October [REDACTED] 2020, the Department received Petitioner’s Redetermination form where she confirmed that she was living at [REDACTED] [REDACTED] [REDACTED] with two children. Exhibit A, pp 151-152.
3. On October [REDACTED] 2019, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving earned income in the gross monthly amount of \$[REDACTED] Exhibit A, pp 51-52.

4. On November █ 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving earned income in the gross monthly amount of \$█ Exhibit A, pp 57-58.
5. On April █ 2021, the Department received her Semi-Annual Contact Report where Petitioner reported that she was living at █ with two children and that her household income has not increased by more than \$100 from the \$█ that was being applied towards her eligibility for Food Assistance Program (FAP) benefits. Exhibit A, pp 165-157.
6. On April █ 2021, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving earned income in the gross monthly amount of \$█ and unearned income in the gross monthly amount of \$█ Exhibit A, pp 64-65.
7. On October █ 2021, the Department received Petitioner's Redetermination form where she reported that she was living at █ with two children and that her unemployment benefits had recently ended. Exhibit A, pp 159-162.
8. On November █ 2021, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of three receiving earned income in the gross monthly amount of \$█ Exhibit A, pp 69-70.
9. On April █ 2022, the Department received Petitioner's Semi-Annual Contact Report where she reported that she was living at █ with two children and that her household income had not increased by more than \$100 from the \$█ that was being applied towards her eligibility for Food Assistance Program (FAP) benefits. Exhibit A, pp 164-165.
10. On June █ 2022, the Department received Petitioner's application for State Emergency Relief (SER) assistance where she reported that she was living at █ with three children, and that she had been off work due to maternity leave. Exhibit A, pp 167-171.
11. Petitioner was employed and received earned income from January 3, 2020, through December 31, 2021. Exhibit A, pp 80-132.
12. █ received earned income from employment from January 4, 2020, through January 22, 2022. Exhibit A, pp 133-136.
13. █ started employment on November 12, 2010, and he received earned income from that employment from December 6, 2010, through January 28, 2022. Mr. Dedeaux reported to his employer that his home address was █. Exhibit A, pp 137-142.
14. On October █ 2020, the Department received a copy of a bank account statement showing that Petitioner and Mr. █ were both listed on the account. Exhibit A, p 143.

15. Mr. [REDACTED] is named on the mortgage for the property located at [REDACTED] [REDACTED] as of July 16, 2022. Exhibit A, p 144.
16. Petitioner received Food Assistance Program (FAP) benefits. Exhibit A, pp 14-21.
17. On April [REDACTED] 2024, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that she had received a \$[REDACTED] overissuance of Food Assistance Program (FAP) benefits that the Department intends to recoup. Exhibit A, p 7.
18. On May 1, 2024, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (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) 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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Parents and their children must be in the same FAP benefit group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (March 1, 2024), p 1.

Petitioner was an ongoing recipient of FAP benefits when the Department received her State Emergency Relief (SER) application requesting assistance with a utility bill. Petitioner claims that she pays rent in her home, but the Department discovered that the home is owned by the father of Petitioner's children. The father of Petitioner's children is employed and received earned income, and this income is countable towards Petitioner's eligibility for FAP benefits if he is living in the home.

Petitioner argues that the father of her children lives with his parents but failed to offer any evidence of where he lives.

The Father of Petitioner's children owns the home where Petitioner lives, and he reported that address to his employer as his home address. Petitioner has a bank account along

with the father of her children and this bank account lists the father of her children as a co-owner.

Based on the evidence and testimony available during the hearing, the hearing record supports a finding that the father of Petitioner's children lives in the home with Petitioner, and he is a mandatory group member as required by BEM 212. Department policy does not allow a parent to be excluded from a household even if the parent is not in the home full time.

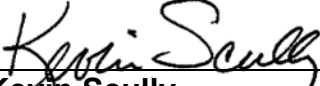
Petitioner received FAP benefits for herself and her children totaling \$[REDACTED] from December 1, 2020, through January 31, 2022, not including certain supplemental benefits granted under the Consolidated Appropriations Act (CCA) due the public health emergency and PEBT benefits. If Petitioner had reported to the Department that the father of her children was living in the home, she would not have been eligible for any FAP benefits. Supplemental FAP benefits granted under the CCA and PEBT benefits can not be recouped by the Department. Therefore, Respondent received \$[REDACTED] of FAP benefits that she was not entitled to, and the Department is required to recoup those benefits.

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 \$[REDACTED] overissuance of Food Assistance Program (FAP) benefits that the Department is required to recoup.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dm



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

