



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 21, 2024
MOAHR Docket No.: 24-005417
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 June 20, 2024, from Lansing, Michigan. Petitioner represented herself. The Department was represented by LaCre Barnett.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an overpayment of Food Assistance Program (FAP) benefits due to Agency error that 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. On April [REDACTED] 2020, the Department received Petitioner's application for Food Assistance Program (FAP) benefits where she reported being employed full time. Exhibit A, pp 55-61.
2. On April [REDACTED] 2020, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits as a household of four receiving no earned income from employment and unearned income in the gross monthly amount of \$[REDACTED] Exhibit A, pp 43-52.
3. Petitioner was employed and received earned income from that employment from April 3, 2020, through December 18, 2020. Exhibit A, pp 34-39.
4. From June 1, 2020, through October 31, 2020, Petitioner received Food Assistance Program (FAP) benefits totaling \$[REDACTED] Exhibit A, pp Exhibit A, pp 17-18.

5. On April █ 2024, the Department notified Petitioner that she had received a \$█ overpayment of Food Assistance Program (FAP) benefits during the period of June 1, 2020, through October 31, 2020. Exhibit A, p 10.
6. On April 30, 2024, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (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) 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 overpayment. Department of Human Services Bridges Administrative Manual (BAM) 700 (June 1, 2024), 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).

One type of claim against a household is an "agency error claim," which is any claim for an overpayment caused by an action of failure to take action by the State agency. 7 CFR 273.18(b).

In this case, Petitioner applied for FAP benefits on April █ 2020, reporting that she was employed full time. Due to the public health emergency, an eligibility interview was not completed. On April █ 2020, the Department notified Petitioner that she was eligible for FAP benefits as a household of four people receiving a gross monthly income of \$█ which did not include any earned income from employment.

The fact that Petitioner was receiving earned income from employment was available to the Department, but due to Department error, the Department failed to take action and apply that income towards Petitioner's eligibility for FAP benefits.

In June of 2020, July of 2020, and October of 2020, Petitioner's gross earned income from employment and the child support being received in her household exceeded the \$█ gross monthly income limit for a household of four. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2019), p 1. Therefore, Petitioner was not eligible for any FAP benefits during those months. Respondent

received FAP benefits totaling \$ [REDACTED] during those three months and she was not eligible for any of those benefits. Therefore, petitioner received a \$ [REDACTED] overpayment of FAP benefits.

In August of 2020, September of 2020, November of 2020, and December of 2020, Petitioner's household income did not cause her to be ineligible for any FAP benefits. Due to the public health emergency at that time, households eligible for any FAP benefits would have received the maximum allotment available to them. Therefore, even if the Department had applied Petitioner's income towards her eligibility for FAP benefits, she would have received the maximum amount, and there was no overpayment in those months.

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] overpayment 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

Via-Electronic Mail :

DHHS
Kimberly Kornoelje
Kent County DHHS
**MDHHS-Kent-
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Via-First Class Mail :

Petitioner
[REDACTED]
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