



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 9, 2022
MOAHR Docket No.: 22-005039
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 November 29, 2022. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Eugene Brown, Recoupment Specialist.

ISSUE

Did the Department properly determine that the Petitioner received an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup due to Agency and Client error?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 9-14.
2. On August 19, 2022, the Recoupment Specialist received an Overissuance Referral, DHS 4701, of the Petitioner having unreported earnings from February 2022 to May 2022 due to a wage match of earned income from employment at [REDACTED]. Department Exhibit 1, pgs. 76-79.
3. The Petitioner failed to report within 10 days as required by Department policy that she was employed and earning income from [REDACTED], which was revealed with a wage match with an original hire date of July 27, 2020. Department Exhibit 1, pgs. 7-47, and 50-52.

4. The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,316 during the time period of April 1, 2022, through May 31, 2022, due to Client error. Department Exhibit 1, pgs. 48-63.
5. On October 13, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C. Department Exhibit 1, pgs. 9-14.
6. On October 26, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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, the Petitioner was a recipient of FAP benefits. Department Exhibit 1, pgs. 9-14. On August 19, 2022, the Recoupment Specialist got an Overissuance Referral, DHS 4701, of the Petitioner having unreported earnings from February 2022 to May 2022 due to a wage match of earned income from employment at [REDACTED]. Department Exhibit 1, pgs. 76-79. The Petitioner failed to report within 10 days as required by Department policy that she was employed and earning income from [REDACTED], which was revealed with a wage match with an original hire date of July 27, 2020. Department Exhibit 1, pgs. 7-47, and 50-52.

The Department determined that the Petitioner received a FAP overissuance in the amount of \$1,316 during the time period of April 1, 2022, through May 31, 2022, due to Client error. Department Exhibit 1, pgs. 48-63. On October 13, 2022, the Department sent the Petitioner a Notice of Overissuance, DHS 4358, and a Department and Client Error Information and Repayment Agreement, DHS 4358C. Department Exhibit 1, pgs. 9-14. On October 26, 2022, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 105, 200, 220, 700, 715, and 725. BEM 500, 501, 550, 550, 554, and 556.

During the hearing, the Recoupment Specialist realized that the Department was counting the Petitioner's daughter that was [REDACTED] years of age. In addition, she was not listed on the Petitioner's FAP application. As a result, the Petitioner's [REDACTED]-year-old

daughter should not have been a part of the household group composition, nor should her income have been counted as part of the FAP household income. The Petitioner's other daughter was incorrectly removed and not counted but should have been counted. As a result, the Department needs to redetermine the FAP overissuance due to Client error based on this review of the hearing packet for the contested time period of April 1, 2022, through May 31, 2022.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that the Petitioner had an overissuance of FAP benefits due to Client Error.

Accordingly, the Department's decision is **REVERSED**.

The Department is ordered to begin doing the following, in accordance with department policy and consistent with this hearing decision, of initiating a redetermination of the Petitioner's eligibility for FAP for the contested time period of April 1, 2022, through May 31, 2022, by correcting the household group composition and the employment income that should be counted.

Based on policy, the Department should provide the Petitioner with written notification of the Department's revised eligibility determination and issue the Petitioner any retroactive benefits she may be eligible to receive, if any.

CF/cc



Carmen G. Fahie

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 :

Interested Parties

MDHHS-Calhoun-Hearings
MDHHS-Recoupment-Hearings
BSC3-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]