



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 17, 2023
MOAHR Docket No.: 23-006706
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 November 15, 2023, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Tracy Upshaw.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner received an 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. Petitioner was an ongoing Food Assistance Program (FAP) recipient at times relevant to this matter.
2. On February [REDACTED] 2019, Petitioner reported that her spouse had started employment on January [REDACTED] 2019. Exhibit A, p 38.
3. Petitioner's spouse received gross earned income from employment totaling \$[REDACTED] in April of 2019, and \$[REDACTED] in May of 2019. Exhibit A, pp 19-24.
4. Petitioner received Food Assistance Program (FAP) benefits totaling \$[REDACTED] from April 1, 2019, through May 31, 2019. Department records indicate that these two allotments of benefits were issued on April 3, 2019, and May 3, 2019, and there is no record of supplementary benefits being issued. Exhibit A, p 13.

5. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED] in April and May of 2019. Exhibit A, pp 25-27.
6. On February [REDACTED] 2023, the Department notified Petitioner that she had received a \$[REDACTED] overissuance of Food Assistance Program (FAP) benefits during the period of April 1, 2019, through May 31, 2019, due to Department error. Exhibit A, p 6.
7. On October 6, 2023, the Department received Petitioner's request for a hearing protesting the recoupment of Food Assistance Program (FAP) benefits. Exhibit A, pp 3-4.

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).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (October 1, 2023), p 12. The Department will act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change, except that the Department will act on a change other than a tape match within 10 days of becoming aware of the change. Department of Health and Human Services Bridges Administrative Manual (BAM) 220 (October 1, 2023), p 7. A pended negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p 12.

Petitioner was an ongoing recipient of FAP benefits when she reported that her spouse had started employment on January [REDACTED] 2019. Petitioner's spouse received earned

income from that employment, and his actual gross income in April was \$ [REDACTED] and \$ [REDACTED] in May of 2019.

Although Petitioner reported the changes to her circumstances, the Department failed to properly act on those changes. If the Department had properly recorded the increase of household income in a timely manner, Petitioner's eligibility for ongoing benefits should have been redetermined by March [REDACTED] 2019. Since the increase of income would have resulted in the closure of Petitioner benefits, that negative action would have been delayed by 12 days, and Petitioner's eligibility would not have changed until the first benefits period after March 19, 2019.

Petitioner received FAP benefits totaling \$ [REDACTED] from April 1, 2019, through May 21, 2019. In May of 2019, Petitioner received a total household income of \$ [REDACTED] including earned income from employment and RSDI benefits. Since Petitioner reported the income, she was entitled to a 20% earned income deduction and the \$228 standard deduction. Reducing the total gross household income by those two deductions left Petitioner with an adjusted gross income of \$ [REDACTED]. Petitioner was not entitled to a deduction for housing and shelter expenses because her total shelter expenses of \$ [REDACTED] were less than 50% of her adjusted gross monthly income. Therefore, Petitioner's net monthly income was the same as her adjusted gross monthly income, which exceeded the \$2,812 net monthly income limit for a household of six. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2018), p 1.

Petitioner argued that she did report the increase of household income and that she did not receive the FAP benefits the Department claims were issued to her in error. Petitioner testified that she destroyed her EBT card after her spouse started employment.

However, Department records indicate that Petitioner was issued FAP benefits in April and May of 2019, and no evidence that these benefits were not granted to Petitioner was presented on the record. If Petitioner did destroy her EBT card, then it is Department procedure to apply those benefits remaining on the EBT card to satisfy any overissuance of FAP benefits. But that does not relieve Petitioner of her duty to reimburse the Department for the overissuance.

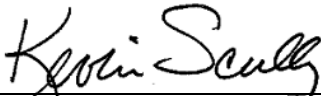
It is not disputed that Petitioner reported the increase to her household income, or that it was Department error that this income was not applied towards her eligibility for ongoing benefits in a timely manner. The hearing record supports a finding that Petitioner was granted FAP benefits in April and May of 2019 that she was not eligible for based on her actual household income in each of those months. When FAP benefits are issued to a household that is not eligible for those benefits, the Department is required by federal regulations to recoup that debt.

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

Via-Electronic Mail :

DHHS
Shanna Ward
Osceola-Mecosta County DHHS
**MDHHS-Mecosta-Osceola-
Hearings@michigan.gov**

DHHS Department Rep.
Overpayment Establishment Section
(OES)
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BSC3HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

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