



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

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Date Mailed: December 4, 2023
MOAHR Docket No.: 23-006866
Agency No.: ██████████
Petitioner: █████ █████

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 28, 2023, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Kathleen Zewatsky.

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. On October █████ 2021, the Department notified Petitioner that she was eligible for ongoing Food Assistance Program (FAP) benefits as a household of one that was not receiving any earned income from employment. Exhibit A, pp 22-29.
2. On October █████ 2021, the Department received Petitioner's Employment Verification Form as verification that she had started employment on September █████ 2021. Exhibit A, pp 39-40.
3. Petitioner was employed and received earned income of approximately \$█████ per week from October 3, 2021, through June 5, 2022. Exhibit A, p 33.
4. Petitioner received Food Assistance Program (FAP) benefits totaling \$█████ from December 1, 2021, through March 31, 2022. Exhibit A, p 14.

5. On September █ 2023, the Department sent Petitioner a Notice of Overissuance (DHS-4358) instructing her that she had received a \$█ overissuance of Food Assistance Program (FAP) benefits due to the Department's error. Exhibit A, p 7.
6. On October 16, 2023, 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.

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).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2023), pp 7-8.

Petitioner was an ongoing FAP recipient on October █ 2021, when the Department notified her that she was eligible for ongoing FAP benefits as a household of one that was not receiving any earned income from employment.

On October █ 2021, the Department received verification that Petitioner had started employment on September █ 2021. Petitioner received earned income from that employment in the gross weekly amount of approximately \$█. Due to Department error, Petitioner's earned income was not applied towards her eligibility for FAP benefits. A gross weekly income of \$█ is converted to a prospective gross monthly income of \$█ by multiplying by the 4.3 conversion factor as directed by BEM 503. The gross monthly income limit for a household of one to receive any FAP benefits was \$1,396. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2021), p 1.

The Department received verification of Petitioner's employment on October [REDACTED] 2021, and was required to act on that information within 10 days. If the Department had properly processed that information, it would have resulted in the closure of Petitioner's FAP benefits based on her gross income. This closure would have been delayed 12 days, and Petitioner's FAP benefits would have been closed by the first benefit period after November 19, 2023.


Petitioner received FAP benefits totaling \$[REDACTED] from December 1, 2021, through March 31, 2022. Petitioner was not eligible for any of those benefits based on her earned income from employment. Therefore, Petitioner received a \$[REDACTED] overissuance of FAP benefits that the Department is required to recoup.

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 and it is required to recoup that debt.

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
Heather Dennis
Jackson County DHHS
**MDHHS-Jackson-
Hearings@michigan.gov**

DHHS Department Rep.
Overpayment Establishment Section
(OES)
**MDHHS-RECOUPMENT-
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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED]