



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

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██████████, MI ██████████

Date Mailed: November 22, 2024
MOAHR Docket No.: 24-011727
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 13, 2024, from Lansing, Michigan. Petitioner was represented by his father, ██████████ ██████████ ██████████ and Petitioner testified his own behalf. The Department was represented by Walita Randle.

ISSUE

Did the Department of Health and Human Services (Department) properly determined that Petitioner received an overpayment of Food Assistance Program (FAP) benefits that the Department must 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 acknowledged the duties and responsibilities of receiving Food Assistance Program (FAP) benefits on an application for assistance dated August 22, 2022. Exhibit A, p 79.
2. On December 21, 2023, the Department received Petitioner's Semi-Annual Contact Report. Exhibit A, p 71.
3. Petitioner acknowledged the duties and responsibilities of receiving FAP benefits on an application for assistance dated ██████████ ██████████ 2024. Exhibit A, p 64.
4. Petitioner reported on his ██████████ ██████████ 2024, application form that he was homeless. Exhibit A, p 64.

5. Petitioner received Food Assistance Program (FAP) benefits as a household of one totaling \$5,336 from March 1, 2024, through September 30, 2024. Exhibit A, p 18.
6. From January 1, 2024, through August 2, 2024, the overwhelming majority of purchases made with Petitioner's Food Assistance Program (FAP) benefits were made in the state of Texas. Exhibit A, pp 40-63.
7. On September 17, 2024, the Department notified Petitioner that he had received a \$5,336 overpayment of Food Assistance Program (FAP) benefits during the period of March 1, 2023, through September 30, 2024, that the Department intended to recoup. Exhibit A, p 7.
8. On October 11, 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.

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 (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).

To be eligible for FAP benefits, a person must be a Michigan resident. A person is considered a resident under the FAP while "living in" Michigan for any purpose other than a vacation, even if there is no intent to remain in the state permanently or indefinitely. Department of Health and Human Services Bridges Eligibility Manual (BEM) 220 (July 1, 2020), pp 1-2. The Department is prohibited from imposing any durational residency requirements on the eligibility for FAP benefits. 7 CFR 273.3(a).

State agencies must adopt uniform standards to facilitate interoperability and portability nationwide. The term “interoperability” means the EBT system must enable benefits issued in the form of an EBT card to be redeemed in any state. 7 CFR 274.8(b)(10).

Petitioner was an ongoing recipient of FAP benefits as a household of one from March 1, 2024, through September 30, 2024. During that period, Petitioner made purchases with his FAP benefits and nearly every one of those purchases was made in the state of Texas. Petitioner does not deny these purchases made in the state of Texas.

Petitioner is entitled to make purchases with his FAP benefits in the state of Texas. Petitioner is entitled to leave Michigan for temporary absences, and it is not necessary that he intend to remain in Michigan permanently. Petitioner is entitled to obtain employment outside of Michigan, although he is obligated to report that employment in a timely manner.

Petitioner reported to the Department that he was homeless, and he is under no obligation to maintain a fixed residence in order to remain eligible for FAP benefits. Petitioner is under no duty to report temporary absences from Michigan.

Petitioner’s father credibly testified that his son was in Texas often but that he provided his son with food while in Michigan so that it was only necessary for his son to use FAP benefits while in Texas.

The Department alleges that Petitioner was not “living in” Michigan based on the amount of time he spent in Texas and that he was employed in Texas although no evidence of employment in Texas was entered into the hearing record. Petitioner credibly testified that he was a student in Texas, but insufficient evidence was presented to establish whether or not he meets the criteria of the student status policy.

This Administrative Law Judge finds that the Department has failed to establish that Petitioner was ineligible for any FAP benefits because it has not established that he was not temporarily absent from Michigan.

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 did not act in accordance with Department policy when it determined that Petitioner received an overpayment of Food Assistance Program (FAP) benefits.


DECISION AND ORDER

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, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Accordingly, the Department's decision is hereby **REVERSED**, and the Department is ORDERED to delete the overpayment and cease any recoupment action.

KS/nr



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 :

Agency Representative

Walita Randle
Overpayment Establishment Section (OES)
235 S Grand Ave Ste 811
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Interested Parties

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Via-First Class Mail :

Petitioner

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