



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: January 14, 2019  
MAHS Docket No.: 18-013022  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** John Markey

**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 January 9, 2019, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Dawn McKay, Recoupment Specialist. During the hearing, a 38-page packet of documents was offered and admitted as Exhibit A, pp. 1-38.

**ISSUE**

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled 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. During the relevant time period, Petitioner was an ongoing recipient of FAP benefits receiving full benefits for a group of two based on an income of \$ [REDACTED]
2. On or about [REDACTED] [REDACTED] 2016, Petitioner began receiving income from [REDACTED] [REDACTED]. Exhibit A, pp. 22-26.
3. During the month of January 2017, the Department became aware of Petitioner's employment with [REDACTED] and sent Petitioner a New Hire Client Notice. Petitioner returned the completed New Hire Client Notice to the Department on [REDACTED]

February 7, 2017. Petitioner reported that she was working full-time for [REDACTED] Exhibit A, pp. 22-23.

4. The Department did not update Petitioner's FAP budget to include the income from [REDACTED]. The Department issued to Petitioner full FAP benefits for a group of two for each month from February 2017 through April 2017 based on an income of \$[REDACTED]. Exhibit A, pp. 27-33.
5. From February 1, 2017, through April 30, 2017, Petitioner received \$357 per month in FAP benefits. Over that time period, Petitioner received \$1,071 in FAP benefits. Exhibit A, p. 27-33.
6. Each month from February 1, 2017, through April 30, 2017, Petitioner received income from her employment at [REDACTED]. Petitioner's accurate income information was provided by [REDACTED] to the Department on or about July 5, 2018. Exhibit A, pp. 24-26.
7. On May 22, 2018, a Department worker completed an Overissuance Referral, Form 4701, and the matter was forwarded to a Recoupment Specialist.
8. On November 21, 2018, the Recoupment Specialist issued to Petitioner a Notice of Overissuance, Forms 4358-A through 4358-D. The Notice of Overissuance alleged that Petitioner received an overissuance of FAP benefits in the amount of \$754 during the period of February 1, 2017, through April 30, 2017, on account of Agency Error. The Department calculated the \$754 overissuance by including Petitioner's actual income into the budget for each of those three months. Exhibit A, pp. 27-38.
9. On December 3, 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's finding that Petitioner was overissued FAP benefits in 2017.

### **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 Department is seeking to recoup an alleged \$754 overissuance of FAP benefits issued to Petitioner. The Department alleges that the overissuance was caused by the Department's error in failing to update Petitioner's FAP budget to include her income from SMI. The Department now seeks to recoup and/or collect that amount from Petitioner.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (January 2018), p. 1. An overissuance is the amount of benefits issued to the client group in excess of what it was eligible to receive. BAM 700, p. 1. A client error overissuance occurs when the client receives more benefits than he or she was entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 6. An agency error overissuance is caused by incorrect action (including delayed or no action) by the Department. BAM 705 (October 2018), p. 1. Regardless of whether the overissuance was caused by client error or agency error, the Department must attempt to establish any alleged overissuance over \$250. BAM 700, p. 5; BAM 715, p. 7.

In this case, Petitioner received a total of \$1,071 in FAP benefits for the time period of February 1, 2017, through April 30, 2017. Petitioner's monthly FAP benefit amount was calculated by the Department based on Petitioner having \$█ in income. However, at that time, Petitioner was receiving income from her employment with █. By not factoring in Petitioner's proper income, the Department mis-calculated Petitioner's monthly FAP allotment and overissued FAP benefits to Petitioner. Thus, the Department has presented sufficient evidence to establish that there was an overissuance of FAP benefits from February 1, 2017, through April 30, 2017.

To demonstrate how the Department came up with the \$754 overissuance amount, the Department presented FAP overissuance budgets for the period of February 1, 2017, through April 30, 2017. The Department calculated the benefits Petitioner should have received each month during the overissuance period based on the addition of Petitioner's income from employment with █. According to the documents presented by the Department, Petitioner was entitled to receive a total of \$317 during that time period, not the \$1,071 the Department issued. During the hearing, Petitioner acknowledged that she earned the income as reflected on the documents the Department relied upon in coming up with her actual income for each of those months. The documents presented by the Department validate the Department's calculations. Based upon the evidence presented at the hearing, the Department correctly concluded that Petitioner received an agency error overissuance of FAP benefits of \$754 from February 1, 2017, through April 30, 2017.

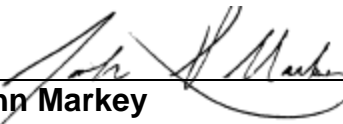
### **DECISION AND ORDER**

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 acted in accordance with policy when it determined Petitioner was overissued FAP benefits each

month from February 1, 2017, through April 30, 2017, totaling \$754. Accordingly, the Department's decision is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a \$754 agency error overissuance, less any amounts already recouped or collected, in accordance with Department policy.

JM/hb

  
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**John Markey**  
Administrative Law Judge  
for Robert Gordon, Acting Director  
Department of Health and Human Services

**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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Eileen Asam  
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BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]