



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: April 29, 2019
MOAHR Docket No.: 19-003070
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, 42 CFR 431.230(b), and 45 CFR 235.110, and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on April 24, 2019, from Lansing, Michigan. The Department was represented by Patrick Lynaugh, Recoupment Specialist. The Petitioner was represented by his wife [REDACTED] [REDACTED]. Petitioner also appeared and testified. Department Exhibit 1, pp. 1-68 was received and admitted.

ISSUE

Did Petitioner receive an over-issuance (OI) of Food Assistance Program (FAP) benefits?

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 a recipient of FAP benefits from the Department.
2. Petitioner reported a change in shelter expense that the Department failed to process.
3. The Department alleges Petitioner received a FAP OI during the period October 1, 2018, through February 28, 2019, due to Department error.
4. The Department alleges that Petitioner received \$1,070 OI that is still due and owing to the Department.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 to .3015.

AGENCY ERROR EXCEPTIONS FIP, SDA, CDC and FAP

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705

Additionally, Petitioner reported a change in shelter expense in a timely manner. The Department failed to process the changes in shelter expense and Petitioner received an overissuance of FAP benefits from the time period from October 1, 2018, through February 28, 2019 in the amount of \$1,080. The Department recouped \$10 from Petitioner's ongoing benefit. Petitioner owes \$1,070 toward the overissuance.

Petitioner questioned why he should be required to pay back the overissuance if it resulted from agency error. It was explained that Department policy requires that Department error overissuances over \$250 must be repaid. BAM 705


The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Petitioner totaling \$1,070.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$1,070 OI in accordance with Department policy.

AM/nr



Aaron McClintic
Administrative Law Judge
for Robert Gordon, 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 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

DHHS

Angela Neubecker
444 E. Houghton
West Branch, MI
48661

Ogemaw County DHHS- via electronic
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Petitioner

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