



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 6, 2019
MOAHR Docket No.: 19-006919
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 July 30, 2019, from Lansing, Michigan. The Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Recoupment Specialist, Toni Grimes. Ms. Grimes testified on behalf of the Department. The Department submitted 81 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of FAP benefits from September 1, 2016 through November 30, 2016, in the amount of \$1,303.00 based on her Simplified Reporter status?

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 November 2, 2015, the Department mailed Petitioner a Notice of Case Action indicating she had been approved for \$235.00 a month in FAP benefits from December 1, 2015 through November 30, 2016. [Dept. Exh. 52-55].
2. On April 1, 2016, the Department mailed Petitioner a Semi-Annual Contact Report. Petitioner completed and returned the Semi-Annual Contact Report on April 18, 2016. [Dept. Exh. 38-39].

3. On June 11, 2016, the Department mailed Petitioner a Notice of Case Action indicating that her FAP benefits had decreased to \$437.00 a month from July 1, 2016 through November 30, 2016. [Dept. Exh. 40-43].
4. On June 3, 2019, a Notice of Overissuance was mailed by the Department to the Petitioner alleging that Petitioner received an overissuance for the period of September 1, 2016 through November 30, 2016 of \$1,303.00. [Dept. Exh. 6-10].
5. On July 12, 2019, Petitioner submitted a hearing request contesting the overissuance. [Dept. Exh. 2].

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.

According to the Bridges Administrative Manual (BAM), the Department sends the simplified reporting information which explains the reporting requirements and provides the gross monthly income reporting for the group based on their circumstances at the time of issuance. BAM 200, p 2 (1/1/2017). The DHS-1605, Notice of Case, sent at application and redetermination includes the specific income limit for the group based on the group size. BAM 200.

On June 11, 2016, the Department mailed Petitioner a Notice of Case Action indicating that her FAP benefits had decreased to \$437.00 a month from July 1, 2016 through November 30, 2016. Nothing in the Notice indicated that Petitioner was a Simplified Reporter. The Department also submitted no evidence that indicated Petitioner was a Simplified Reporter from September 1, 2016 through November 30, 2016.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner had received an overissuance based on a Simplified Reporter status.

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:

1. The Department shall dismiss the overissuance of \$1,303.00.
2. The Department shall issue a new Notice of Case Action indicating that the Petitioner did not receive an overissuance of \$1,303.00 for the time period of September 1, 2016 through November 30, 2016.

IT IS SO ORDERED.

VLA/nr



Vicki L. Armstrong
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

Holly DeGroat
515 South Sandusky
Sandusky, MI
48471

Sanilac County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
Lansing, MI
48909

Petitioner

[REDACTED]
MI