



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 5, 2019
MOAHR Docket No.: 19-006979
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 1, 2019, from Lansing, Michigan. [REDACTED] [REDACTED] Petitioner, appeared and represented herself. Richkelle Curney, Hearing Facilitator, appeared with Swanzetta Wilson, Recoupment Specialist, for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 112-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Does Petitioner owe the Department a debt for Food Assistance Program (FAP) benefits that were overissued?

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 is a FAP benefit recipient.
2. Petitioner has a household size of one.
3. Petitioner's sole source of income is from social security. Petitioner received \$ [REDACTED] per month from social security effective December 1, 2017. Petitioner received \$ [REDACTED] per month from social security effective December 1, 2018.

4. Petitioner pays property taxes on her residence. Petitioner paid \$605.08 for 2017 property taxes. Petitioner paid \$580.49 for 2018 property taxes.
5. From July 2018 through June 2019, the Department issued Petitioner a FAP benefit of \$192.00 per month. The Department determined that Petitioner was eligible for a FAP benefit of \$192.00 per month by budgeting \$[REDACTED] for income, \$112.62 per month for property taxes, and \$153.09 per month for medical expenses.
6. On June 10, 2019, a quality assurance audit was completed which revealed that the Department overissued FAP benefits to Petitioner from July 2018 through June 2019. The audit determined that the Department overissued FAP benefits to Petitioner because (a) the Department erroneously budgeted \$0.00 for Petitioner's income when it should have budgeted her income from social security, (b) the Department erroneously budgeted \$112.62 per month for property taxes which included waste management fees when it should not have, and (c) the Department erroneously budgeted \$153.09 per month for medical expenses because the expenses were only for one month in October 2015.
7. On June 20, 2019, the Department mailed a notice of overissuance to Petitioner to notify her that the Department overissued her FAP benefits totaling \$2,124.00 for July 2018 through June 2019.
8. On July 2, 2019, Petitioner requested a hearing to dispute the debt.

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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (July 1, 2019), BEM 213 (January 1, 2019), BEM 550 (January 1, 2017), BEM 554 (April 1, 2019), BEM 556 (July 1, 2019), RFT 255 (October 1, 2017 and October 1, 2018), and RFT 260 (October 1, 2017). Here, the Department did not properly determine Petitioner's monthly FAP benefit amount when it initially determined that she was eligible for \$192.00 per month. The Department did not budget Petitioner's income from social security, which caused the

Department to overissue FAP benefits to Petitioner. Further, the Department erroneously included waste management fees in Petitioner's property tax expense and the Department erroneously included a one-time medical expense for multiple months. Based on Petitioner's income and her actual expenses, Petitioner was eligible for a maximum FAP benefit of \$15.00 per month from July 2018 through June 2019. However, the Department issued Petitioner \$192.00 per month from July 2018 through June 2019. Thus, the Department overissued Petitioner FAP benefits totaling \$2,124.00.

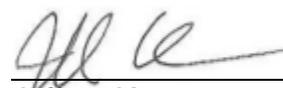
When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was entitled to receive. *Id.* at p. 2. Overissuances for FAP that result from the Department's error must be pursued by the Department when the amount is greater than or equal to \$250. BAM 705 (October 1, 2018), p. 1. Here, Petitioner received an overissuance due to the Department's error. However, the Department acted in accordance with its policies when it pursued the overissuance because the amount involved was greater than or equal to \$250.

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 did act in accordance with its policies and the applicable law when it issued its recoupment notice on June 20, 2019, for an overissuance of FAP benefits totaling \$2,124.00.

IT IS ORDERED that the Department may initiate recoupment procedures to collect the \$2,124.00 debt Respondent owes the Department for the FAP benefits she was overissued.

JK/nr



Jeffrey Kemm
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 Department Rep.

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

Wayne 17 County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS

Tara Roland 82-17
8655 Greenfield
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48228

Petitioner

[REDACTED]
MI