



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI

Date Mailed: October 11, 2019
MOAHR Docket No.: 19-009360
Agency No.: [REDACTED]
Petitioner: [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 October 9, 2019, from Lansing, Michigan. The Department was represented by April Ketner, Recoupment Specialist. Michelle Morley AP Supervisor and Charma Wentworth AP Worker also appeared for the Department. The Petitioner was represented by himself. Department Exhibit 1, pp. 1-60 was received and admitted.

ISSUE

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

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. The Department alleges Petitioner received a/an FAP OI during the period January 1, 2019, through May 31, 2019, due to **Department** error.
3. The Department alleges that Petitioner received \$3,810 OI that is still due and owing to the Department.
4. Petitioner submitted employment verification that was not processed on [REDACTED]
[REDACTED]

- Petitioner's employment income was not budgeted during the overissuance period.

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

OVERISSUANCE AMOUNT

FIP, SDA, CDC and FAP

The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705

Additionally, Petitioner submitted employment verification on December 1, 2018, that was not processed. As a result, Petitioner's employment income was not budgeted. Petitioner received \$3,810 in FAP benefits that he was not entitled to. Department policy dictates that overissuances due to Department error over \$250 are recouped. BAM 705, 7 CFR 273.18

Petitioner questioned why he should have to repay the overissuance if it was not due to his error. Petitioner stated that he would not have used the benefits if he had been made aware that he was not entitled to them. Department policy is clear that overissuances due to Department error are to be recouped.

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 Respondent totaling \$3,810.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$3,810 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 Department Rep.

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

Wexford County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS

Sheila Crittenden
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Petitioner

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