



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: October 14, 2019
MOAHR Docket No.: 19-009802
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 October 9, 2019, from Lansing, Michigan. The Department was represented by Rhonda Holland, Recoupment Specialist. The Petitioner was represented by herself. Department Exhibit 1, pp. 1-82 was received and admitted.

ISSUE

Did Petitioner receive an over-issuance (OI) of Food Assistance Program (FAP) benefits due to client 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. On October 4, 2018, Notice of Overissuance was sent to Petitioner alleging that she received an overissuance in the FAP program totaling \$2,535
3. The Department alleges Petitioner received a/an FAP OI during the period June 1, 2015, through December 31, 2015, due to **Client** error.
4. The Department alleges that Petitioner received \$2,535 OI that is still due and owing to the Department.

5. Petitioner failed to report her spouse's employment income within 10 days of when the employment started and at redetermination.
6. On [REDACTED] [REDACTED] Petitioner requested a hearing disputing the overissuance determination

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.

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 failed to report employment income from her spouse's employment. The income from Petitioner's spouse's employment was not budgeted and that resulted in an overissuance of FAP benefits. The Department is required to recoup overissuance that resulted from client error. BAM 705, 7 CFR 273.18 The Department provided testimony and evidence to support the \$2,535 FAP overissuance. Petitioner's husband's income was not budgeted and was not reported by Petitioner in her semi-annual contact report. (Ex. 1, pp. 45-46)

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 \$2,535.

Petitioner testified that her recollection was that her FAP benefits were reduced and she presumed that this was because her husband's income was budgeted. Petitioner's FAP benefits were not reduced during the fraud period, so it appears that Petitioner's recollection was incorrect. (Ex.1, pp. 43-44)

In addition, Petitioner's request for hearing was not filed within 90 days of the Notice of Overissuance and could have been dismissed for being untimely. BAM 600

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$2,535 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

Denise Ezell
3040 W Grand Blvd STE 5-450
Detroit, MI
48202

Wayne Pathways to Potential- Wayne 23
DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS Department Rep.

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

Petitioner

[REDACTED]
MI