



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]
Date Mailed: March 3, 2020
MOAHR Docket No.: 19-013900
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

ORDER OF DISMISSAL

Upon the request for a hearing by Petitioner [REDACTED] this matter was before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a and 24.201, *et seq.*, and in accordance with Titles 7, 42 and 45 of the code of Federal Regulations, particularly 7 CFR 273.15 and 42 CFR 431.230(b), and with Mich Admin Code R 400.3130 and R 400.3178. Petitioner appeared at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and [REDACTED], Recoupment Specialist.

Petitioner requested a hearing on December 20, 2019. Although Petitioner's hearing request referenced changes to her Food Assistance Program (FAP) benefit amount, at the hearing she clarified that her concern was a \$790 FAP over-issuance she had been notified she owed the Department as identified in the Notice of Overissuance the Department sent her on December 9, 2019. In the Notice, the Department advised Petitioner that, due to agency error, she was over-issued \$790 in FAP benefits for the period November 1, 2018 to October 31, 2019.

At the hearing, [REDACTED] testified that an over-issuance against Petitioner was initially assessed because the Department believed that, although Petitioner was receiving the heat and utility standard deduction in the calculation of her FAP benefits November 1, 2018 to October 31, 2019, she was not entitled to this expense. Because she was receiving a deduction that she was not eligible to receive, the Department concluded that Petitioner received more FAP benefits than she was eligible to receive. At a prehearing conference, after Petitioner filed her December 20, 2019 hearing request, the Department verified that, because Petitioner had applied for and received a Home Heating Credit on October 17, 2019 (Exhibit G), she was in fact eligible for the heat and utility standard deduction and she had properly received the benefits she was eligible to receive from November 1, 2018 to October 31, 2019. Accordingly, the Department presented evidence that it deleted a \$780 outstanding FAP over-issuance balance from Petitioner's FAP account and issued her a \$10 FAP supplement, which

Petitioner acknowledged receiving. (Exhibits B, C and D.) As a result, Petitioner had a \$0 outstanding balance due to the Department.

Because the Department acknowledged its error in seeking an overissuance from Petitioner and presented documentary evidence to show that it had remedied its error by removing the outstanding balance from Petitioner's case and supplementing her for amounts recouped, there is no negative action against Petitioner pending as of the hearing date with respect to the overissuance. Therefore, Petitioner has no basis for a hearing. See Mich Admin Code, R 792.11002 and R 792.11020. If Petitioner has any other concerns regarding her FAP benefits, she is advised to request a hearing in accordance with Department policy.

Because the Department acknowledged that it erred in assessing a FAP overissuance against Petitioner and presented evidence that the overissuance was removed prior to hearing, Petitioner's request for hearing is **DISMISSED**.

ACE/tlf



Alice C. Elkin

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 Administrative Hearings and Rules.

Via Email:

MDHHS-Recoupment
MDHHS-Wayne-57-Hearings
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]