



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: December 27, 2019
MOAHR Docket No.: 19-012433
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 3-Way Telephone hearing was held on December 18, 2019, from Lansing, Michigan. The Department was represented by Alberta Kelley, Recoupment Specialist. The Respondent was represented by herself. Department Exhibit 1, pp. 1-103 was received and admitted.

ISSUE

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Respondent was a recipient of FAP benefits from the Department.
2. Respondent received a medical deduction in the amount of \$3,487.
3. The Department alleges Respondent received a FAP OI during the period September 1, 2017, through August 31, 2018, due to Department error.
4. The Department alleges that Respondent received \$5,641 OI that is still due and owing to the Department.

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.

An overissuance is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an overissuance is also the amount of benefits trafficked (stolen, traded, bought or sold) or attempted to be trafficked. Overissuance type identifies the cause of an overissuance. BAM 700

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, Respondent received a medical expense deduction of \$3,487 due to Department error. Respondent did not dispute that she received medical deduction in error. As a result of Department error, Respondent received an overissuance, totaling \$6,070. BAM 705, 7 CFR 273.18. Department policy requires that the Department recoup monies recipients were not entitled to, going back one year from the date of discovery. Respondent had been receiving the medical deduction in error for several years. Respondent paid \$429 towards the overissuance and there remains \$5,641 owed to the Department.

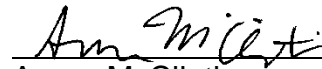
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a FAP benefit OI to Respondent totaling \$5,641.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a \$5,641 OI in accordance with Department policy.

AM/ml



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

Barbara Hamilton
1040 South Winter Street
Ste. 3013
Adrian, MI 49221

DHHS Department Rep.

MDHHS-Recoupment – Via Electronic
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235 S Grand Ave.
Suite 1011
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Lenawee County DHHS – Via Electronic
Mail

OIG – Via Electronic Mail

L. Bengel – Via Electronic Mail

Petitioner

[REDACTED]
MI [REDACTED]