



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED]
[REDACTED]

Date Mailed: February 28, 2020
MOAHR Docket No.: 20-000687
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 February 26, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator and Minnie Egbonu, Recoupment Specialist.

ISSUE

Did Petitioner receive an overissuance of Food Assistance Program (FAP) benefits that the Department is entitled to recoup?

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 during the period of January 1, 2019 through September 30, 2019 (Exhibit A, pp. 18-19).
2. On January 2, 2019, Petitioner completed a redetermination related to her FAP benefit case where she reported that her daughter had moved out of her household on December 18, 2018 (Exhibit A, pp. 43-50).
3. On February 3, 2020, the Department sent Petitioner a Notice of Overissuance informing her that she was overissued FAP benefits in the amount of \$2,389 during the period of January 1, 2019 through September 30, 2019 (Exhibit A, pp. 12-17).

- Petitioner submitted a request for hearing disputing the Department's actions.

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 (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-.3011.

In this case, Petitioner completed a redetermination on January 2, 2019. In the redetermination, Petitioner reported that her daughter had moved out of her household on December 18, 2018.

FAP budget calculations require the consideration of the group size. The Department will determine who must be included in the FAP group prior to evaluating the non-financial and financial eligibility of everyone in the group. BEM 212 (July 2019), p. 1. The FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212, p. 6. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212, p. 1.

Despite the information provided by Petitioner, the Department failed to remove Petitioner's child from her FAP group. As such, the Department testified that Petitioner's FAP benefit amount was improperly calculated, as Petitioner received benefits based on a group size of six, instead of the proper group size of five. The Department testified that Petitioner was overissued FAP benefits for the period of January 1, 2019 through September 30, 2019, in the amount of \$2,389 due to agency error.

When a client group receives more benefits that it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 2016), p. 1. An agency error is caused by incorrect action by the Department staff or department processes. BAM 700, p. 4. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705 (January 2016), p. 6. If improper budgeting of income caused the overissuance, the Department will use actual income for the past overissuance month for that income source when determining the correct benefit amount. BAM 705, p. 8.

The Department presented a redetermination submitted by Petitioner on January 2, 2019. In the redetermination, Petitioner reported that her daughter had moved out of the household. Petitioner indicated that she only had five household members. The Department testified that the initial budgets were based on a group size of six. As such, the Department correctly determined Petitioner's daughter was improperly included in Petitioner's FAP group, and she was overissued FAP benefits as a result of agency error.

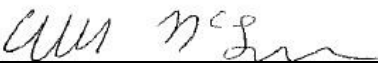
The Department presented Petitioner's Benefit Summary, which showed she was issued \$7,597 in FAP benefits for the period of January 1, 2019 through September 30, 2019. The Department presented overissuance budgets for the same time period (Exhibit A, pp. 20-38). The Department recalculated Petitioner's FAP benefits by removing Petitioner's daughter from the group. The budgets show that for the period of January 1, 2019 through September 30, 2019, Petitioner should have only received \$5,208 in FAP benefits. Therefore, the Department established it properly determined Petitioner was overissued FAP benefits in the amount of \$2,389.

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 acted in accordance with Department policy when it determined Petitioner received an overissuance of FAP benefits in the amount of \$2,389.

Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Wayne-19-Hearings
MDHHS-Recoupment
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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