



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: December 11, 2020
MOAHR Docket No.: 20-006895
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 December 3, 2020, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Dawn McKay, Recoupment Specialist. Department Exhibit 1, pp. 1-36 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits?

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 FAP recipient receiving \$194 per month.
2. Petitioner began receiving RSDI income from the Social Security Administration on February 1, 2020 after turning [REDACTED]
3. The Department determined that Petitioner was eligible for FAP benefits of \$63 per month beginning in May 2020 after his RSDI was budgeted.
4. Petitioner was eligible for a FAP pandemic supplement up to the FAP maximum for a group size of one during the alleged overissuance period if he was not receiving the maximum benefit for a group size of one.

5. On October 2, 2020, Notice of Overissuance was sent to Petitioner alleging that he received \$775 overissuance for the time period from May 1, 2020, through October 31, 2020, due to client error. (Ex. 1, p.31)

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.

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 (October 2018)

In this case, Petitioner would have received the pandemic supplement up to the maximum amount for a group size of one if his social security income had been budgeted correctly and his FAP benefit was reduced to \$63 per month. Petitioner received the maximum amount for a group size of one \$194 during the alleged overissuance period, the same amount he would have received with the pandemic supplement. Petitioner actually received the amount he was eligible to receive, therefore there was no overissuance. BAM 705

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner received an overissuance that the Department was entitled to recoup.

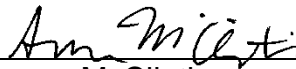
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the overissuance.
2. Do not recoup any FAP benefits from Petitioner.

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

Manistee County DHHS- via electronic
mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS

Patricia Marx (Manistee)
1672 US 31 South
Manistee, MI
49660

Petitioner

[REDACTED] - via first class mail
[REDACTED]
[REDACTED], MI
[REDACTED]