



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: August 26, 2019  
MOAHR Docket No.: 19-007806 & 19-007808  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 21, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Recoupment Specialist, April Ketner, appeared for the Department of Health and Human Services (Department). Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. A 64-page packet of documents provided by the Department in Docket No. 19-007806 was admitted collectively as the Department's Exhibit A, and an 85-page packet of documents provided by the Department in Docket No. 19-007808 was admitted collectively as the Department's Exhibit B.

Dockets 19-007806 and 19-007808 were consolidated. This decision covers all the issues raised in both dockets.

### **ISSUES**

Does Petitioner owe the Department a debt of \$1,228.00 for Food Assistance Program (FAP) benefits that were overissued to Petitioner from March 2014 through June 2014?

Does Petitioner owe the Department a debt of \$3,018.00 for Food Assistance Program (FAP) benefits that were overissued to Petitioner from February 2015 through October 2015?

### **FINDINGS OF FACT**

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

1. On January 10, 2014, Petitioner applied for assistance from the Department, including FAP benefits. In Petitioner's application, Petitioner reported that Daniel Vitek was a member of her household and that he was employed at A D Repair. Petitioner reported that Daniel's rate of pay was \$18.50 per hour and he worked 20 hours per week.
2. On February 6, 2014, the Department issued a notice of case action to Petitioner to notify her that she was approved for FAP benefits. The notice stated, "Effective the date of this notice, the only change you are required to report to the Food Assistance program is when your household income exceeds the limit listed below: \$2,552.00." The notice advised Petitioner to report to the Department within 10 days of the end of the month if her household income exceeded the limit for the month.
3. In the first quarter of 2014, Daniel received \$7,826.55 from his employment.
4. In the second quarter of 2014, Daniel received \$7,831.41 from his employment.
5. In the third quarter of 2014, Daniel received \$7,656.59 from his employment.
6. Petitioner did not report to the Department that her household income exceeded the simplified income reporting limit. The Department continued to issue FAP benefits to Petitioner as if her household income had not changed.
7. On [REDACTED], 2014, Petitioner applied for assistance from the Department, including FAP benefits. In Petitioner's application, Petitioner reported that [REDACTED] was a member of her household and that he was employed at [REDACTED]. Petitioner reported that [REDACTED]'s rate of pay was \$19.50 per hour and he worked 20 hours per week. Petitioner also advised the Department that [REDACTED]'s paychecks vary greatly week to week due to how he was paid.
8. On December 17, 2014, the Department issued a notice of case action to Petitioner to notify her that she was approved for FAP benefits. The notice stated, "Effective the date of this notice, the only change you are required to report to the Food Assistance program is when your household income exceeds the limit listed below: \$3,024.00." The notice advised Petitioner to report to the Department within 10 days of the end of the month if her household income exceeded the limit for the month.
9. In the fourth quarter of 2014, [REDACTED] received \$8,117.50 from his employment.
10. In the first quarter of 2015, [REDACTED] received \$6,898.44 from his employment.
11. On May 14, 2015, Petitioner completed a simplified six-month review. The Department asked Petitioner if her household income had changed by more than \$100 from the previously budgeted amount, and Petitioner answered "No."
12. In the second quarter of 2015, Daniel received \$7,776.94 from his employment.

13. In the third quarter of 2015, Daniel received \$10,473.50 from his employment.
14. Petitioner did not report to the Department that her household income exceeded the simplified income reporting limit. The Department continued to issue FAP benefits to Petitioner as if her household income had not changed.
15. In the fourth quarter of 2015, [REDACTED] received \$9,213.82 from his employment.
16. The Department obtained Daniel's wage records and determined that Petitioner's household did not report when its income exceeded the limit. The Department determined that Petitioner was overissued FAP benefits as a result.
17. On July 9, 2019, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued \$1,228.00 in FAP benefits from March 2014 through June 2014 due to a failure to report earnings exceeding the income limit. The Department also issued a separate notice of overissuance to Petitioner to notify her that she was overissued \$3,018.00 in FAP benefits from February 2015 through October 2015 due to a failure to report earnings exceeding the income limit.
18. On July 16, 2019, Petitioner filed a hearing request to dispute the Department's alleged overissuances.

### **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 only client error overissuances related to simplified reporting that can occur for FAP groups in simplified reporting are when the group fails to report that income exceeds the group's income limit, or the client voluntarily reports inaccurate information. BAM 200 (January 1, 2017), p. 5-6. For failure to report income over the limit, the first month of the overissuance is two months after the actual monthly income exceeded the limit. *Id.*

The Department notified Petitioner on February 6, 2014, that her reporting limit was \$2,552.00. In February 2014, Petitioner's household income was \$2,608.85. Since Petitioner's household income exceeded the limit, Petitioner was required to report it to the Department. Petitioner did not report it to the Department, and the Department continued to issue FAP benefits to Petitioner as if her household income had not changed. This caused the Department to overissue FAP benefits to Respondent.

The Department alleged that Petitioner was overissued FAP benefits beginning March 2014. However, this is inconsistent with BAM 200, which states that the first month of the overissuance is two months after the actual monthly income exceeded the limit.

Since Petitioner's household income first exceeded the monthly limit in February 2014, the first month of the overissuance is April 2014. From April 2014 through June 2014, Petitioner was overissued \$921.00.

The Department notified Petitioner on December 17, 2014, that her reporting limit was \$3,024.00. In December 2014, Petitioner's household income was \$2,705.83. In January, February, and March 2015, Petitioner's household income was \$2,299.48 per month. In April, May, and June 2015, Petitioner's household income was \$2,592.31 per month. In July 2015, Petitioner's household income was \$3,491.17. Since Petitioner's household income exceeded the limit in July, Petitioner was required to report it to the Department. Petitioner did not report it to the Department, and the Department continued to issue FAP benefits to Petitioner as if her household income had not changed. This caused the Department to overissue FAP benefits to Respondent.

The Department alleged that Petitioner was overissued FAP benefits beginning February 2015. However, Petitioner's household income did not exceed the limit until July 2015. Pursuant to BAM 200, which states that the first month of the overissuance is two months after the actual monthly income exceeded the limit, the first month of the overissuance is September 2015. From September 2015 through October 2015, Petitioner was overissued \$684.00.


In summary, the Department did not properly determine the amount of the overissuance. Petitioner was only overissued \$921.00 from April 2014 through June 2014 and \$684.00 from September 2015 through October 2015. Petitioner owes the Department a total overissuance of \$1,605.00.

### **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 did not act in accordance with its policies and the applicable law when it determined the amount of Petitioner's overissuance. However, Petitioner was overissued FAP benefits in the amount of \$1,605.00.

IT IS ORDERED that the Department may initiate recoupment procedures to collect the \$1,605.00 debt Respondent owes the Department for the FAP benefits she was overissued.

JK/nr



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Jeffrey Kemm  
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**

Erin Bancroft  
105 W. Tolles Drive  
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Clinton County DHHS- via electronic mail

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**Petitioner**

