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

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

███████████
████, MI ███

Date Mailed: December 11, 2019
MOAHR Docket No.: 19-012062
Agency No.: ████████
Petitioner: ████████

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 telephone hearing was held on December 5, 2019, from Lansing, Michigan. The Department was represented by Rebecca Webber, Recoupment Specialist. The Respondent was represented by herself. Department Exhibit 1, pp.1-13 was received and admitted.

ISSUE

Did Respondent receive an over-issuance (OI) 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. Respondent was a recipient of FAP benefits from the Department.

2. Respondent failed to report income she received as a pool monitor for Premier Real Estate management.

3. Respondent failed to report employment income from Marysville Schools when she returned to work in August 2017.

4. The Department alleges Respondent received a FAP OI during the period August 1, 2017, through March 31, 2018, due to Respondent's error.

5. The Department alleges that Respondent received $2,027 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

Client Error
All Programs
A **client error** occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700

Additionally, Petitioner acknowledged that she did not report income she received for working as a pool monitor at her apartment complex during the summer 2017. Petitioner testified that because the income was deducted from her rent and not paid to her in the form of a check, she did not understand that it needed to be reported. Petitioner acknowledged that her employment income from the Marysville school district was not budgeted when she returned to work in the fall of 2017. Petitioner stated on her application that she would be returning to work in the fall and presumed her income would be budgeted automatically. Petitioner acknowledged that her FAP benefit did not go down when she returned to work in the fall. The facts clearly establish that Petitioner received overissuances when her pool monitor income was not budgeted, and when her employment income from the school district was not budgeted. BAM 700 The only unresolved issue is whether the overissuances should be characterized as client error or Department error. Petitioner failed to report income from her job as a pool monitor, she received more benefits than she was entitled to because she gave incomplete information. Petitioner failed to report employment income for her job with the school district, she received more benefits than she was entitled because she gave incomplete information. Therefore, the overissuances were client error. BAM 700

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 $2,027.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a/an $2,027 OI in accordance with Department policy.

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
235 S Grand Ave
Suite 1011
Lansing, MI
48909

St. Clair County DHHS- via electronic mail

OIG Hearings- via electronic mail

L. Bengel- via electronic mail

DHHS   Pam Assemany
220 Fort St.
Port Huron, MI
48060

Petitioner   ███████████
███████ MI
███████