



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 13, 2019
MOAHR Docket No.: 19-012100
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 December 11, 2019, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Patrick Lynaugh, Recoupment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 54-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Does Petitioner owe the Department a debt of \$1,186.00 for Food Assistance Program (FAP) benefits that were overissued to Petitioner from January 2014 through April 2014?

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.
2. On October 8, 2013, the Department mailed a notice of case action to Petitioner to notify her that she was approved for a FAP benefit of \$305.00 per month effective November 1, 2013. The Department advised Petitioner that she was a simplified reporter and that she was only required to report a change in income if her household income exceeded \$2,552.00 a month.

3. In November 2013, Petitioner's household income exceeded \$2,552.00. Petitioner did not report to the Department that her household income increased.
4. In December 2013, Petitioner's household income exceeded \$2,552.00. Petitioner did not report to the Department that her household income increased.
5. In January 2014, Petitioner's household income was \$3,791.08. The Department issued Petitioner a FAP benefit of \$305.00.
6. In February 2014, Petitioner's household income was \$3,045.86. The Department issued Petitioner a FAP benefit of \$305.00.
7. In March 2014, Petitioner's household income was \$2,689.89. The Department issued Petitioner a FAP benefit of \$305.00.
8. In April 2014, Petitioner's household income was \$2,656.60. The Department issued Petitioner a FAP benefit of \$305.00.
9. The Department investigated Petitioner's case and determined that Petitioner was overissued FAP benefits because she had unreported household income.
10. On October 16, 2019, the Department mailed a notice of overissuance to Petitioner to notify her that she owed the Department \$1,186.00 for FAP benefits that were overissued to her from January 2014 through April 2014.
11. On November 4, 2019, Petitioner requested a hearing to dispute the Department's decision.

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) 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 administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was eligible to receive. *Id.* at p. 2. In this case, the Department issued Petitioner more FAP benefits than what she was eligible to receive because the Department issued Petitioner FAP benefits without taking into consideration her increased household income, which reduced the FAP benefits she was eligible for. The Department presented sufficient

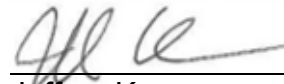
evidence to establish that the total amount overissued was \$1,186.00, and Petitioner did not present any evidence to rebut the Department's evidence. Therefore, I must find that the Department properly determined that Petitioner owes the Department a debt of \$1,186.00.

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 act in accordance with its policies and the applicable law when it determined that Petitioner owes the Department a debt of \$1,186.00 for FAP benefits that were overissued to her from January 2014 through April 2014.

IT IS ORDERED that the Department's decision is **AFFIRMED**.

JK/ml



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

Barbara Schram - 35
2145 East Huron Road
East Tawas, MI 48730

DHHS Department Rep.

MDHHS-Recoupment
235 S. Grand Ave.
Suite 1011
Lansing, MI 48909

Iosco County DHHS – Via Electronic Mail

BSC1 – Via Electronic Mail

M. Holden – Via Electronic Mail

D. Sweeney – Via Electronic Mail

Petitioner

