



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: March 6, 2020
MOAHR Docket No.: 20-000267
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 792.110022. After due notice, a telephone hearing was held on March 5, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Alisha Young, Recoupment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 76-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly determine that Petitioner owes the Department a debt of \$960.00 for Food Assistance Program (FAP) benefits that were overissued to her from January 2019 through May 2019?

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 benefits recipient.
2. Prior to October 2018, Petitioner had a household size of three, which was composed of Petitioner and her two children.
3. In October 2018, Petitioner and her children moved back in with her husband, [REDACTED]

4. On October 30, 2018, Petitioner submitted a change report to the Department to report that she had moved back in with her husband.
5. The Department did not act on Petitioner's change report in a timely manner.
6. The Department continued to issue FAP benefits to Petitioner without taking into consideration the change that Petitioner reported. This caused the Department to issue FAP benefits to Petitioner without taking into consideration her husband's income.
7. The Department issued Petitioner \$192.00 per month for FAP benefits from January 2019 through May 2019.
8. Petitioner's husband's gross income was [REDACTED] in January 2019, [REDACTED] in February 2019, [REDACTED] in March 2019, \$5,765.00 in April 2019, and [REDACTED] in May 2019.
9. The Department discovered that it failed to act on Petitioner's reported change in a timely manner. Upon review of Petitioner's case, the Department determined that Petitioner's household income was over the gross income limit to receive FAP benefits from January 2019 through May 2019.
10. The Department determined that Petitioner was overissued \$960.00 because she was issued \$960.00 in FAP benefits from January 2019 through May 2019 that she was not eligible to receive when taking into consideration her husband's income.
11. On December 23, 2019, the Department mailed a notice of overissuance to Petitioner to notify Petitioner that she received an overissuance of \$960.00 in FAP benefits issued from January 2019 through May 2019.
12. On January 3, 2020, Petitioner requested a hearing to dispute the notice of overissuance.

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 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 husband's income, which made Petitioner's household exceed the gross income limit to receive FAP benefits.

A non-categorically eligible household (without senior/disabled/veteran status) must have income below the gross income limit to be eligible for FAP benefits. BEM 550 (January 1, 2017), p. 1. Effective October 1, 2018, the gross income limit for a household size of four was \$2,720.00 per month. RFT 250 (October 1, 2018). Petitioner's household income exceeded the gross income limit every month from January 2019 through May 2019, so Petitioner was not eligible for any FAP benefits for those months. Therefore, Petitioner was overissued \$960.00 in FAP benefits from January 2019 through May 2019.

Overissuances for FAP that result from the Department's error must be pursued by the Department when the amount is greater than or equal to \$250. BAM 705 (October 1, 2018), p. 1. Here, Petitioner received an overissuance due to the Department's error. However, the Department acted in accordance with its policies when it pursued the overissuance because the amount involved was greater than or equal to \$250.

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 \$960.00 for FAP benefits that were overissued to her from January 2019 through May 2019.

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 Department Rep.

MDHHS-Recoupment – Via Electronic Mail

DHHS

Jackson County DHHS – Via Electronic Mail

OIG – Via Electronic Mail

L. Bengel – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]