



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: December 9, 2020  
MOAHR Docket No.: 20-006610  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 hearing was held on December 7, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tamara Golson, specialist, and Karina Little, supervisor.

### **ISSUE**

The issue is whether MDHHS properly denied Petitioner's application for 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. On March 15, 2019, MDHHS mailed Petitioner a Notice of Overissuance concerning \$1,458 in allegedly overissued FAP benefits from January 2014 through October 2014 due to unreported employment income.
2. On [REDACTED] 2020, Petitioner applied for FAP benefits and reported employment income. Petitioner also submitted proof of employment income from the last 30 days to MDHHS.
3. On October 1, 2020, MDHHS mailed Petitioner a Notice of Balance Due stating that Petitioner owed \$1,237.92 for a previously established overissuance.

4. On October 5, 2020, MDHHS denied Petitioner's application due to a failure to verify stopped employment income.
5. On [REDACTED], 2020, Petitioner requested a hearing to dispute the denial of FAP benefits. Additionally, Petitioner requested a hearing concerning an alleged debt owed to MDHHS.
6. On December 7, 2020, during an administrative hearing, Petitioner withdrew her dispute over the debt, without prejudice, for the purpose of later requesting a hearing.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to question a debt allegedly owed to MDHHS. Exhibit A, pp. 3-5. Petitioner testified that she learned of the debt after receiving a Notice of Balance Due dated October 1, 2020, stating that she owed MDHHS \$1,237.92.

When a benefit group receives more benefits than entitled to receive, MDHHS must attempt to recoup the overissuance. BAM 725 (October 2017) p. 1. Overissuances on cash programs are recouped through cash repayment. *Id.*, p. 3. A Notice of Balance Due, is sent in the month after:

- A program with an outstanding overissuance balance closes.
- The last active program closes and there is an outstanding overissuance balance in any program. *Id.*, p. 12

Petitioner testified that she requested a hearing because she had no prior notice of a debt owed to MDHHS. During the hearing, MDHHS discovered that Petitioner was sent a Notice of Overissuance on March 15, 2019, stating that Petitioner received \$1,458 in overissued FAP benefits due to unreported employment. Petitioner responded that she did not receive the Notice of Overissuance and questioned whether MDHHS properly calculated an overissuance.

Though Petitioner referenced a debt in her hearing request, MDHHS was not prepared during the hearing to address a recoupment dispute from the previous year. Likewise, Petitioner had no knowledge of the alleged debt until the hearing. Petitioner testified that she could benefit from additional time to research her past employment to ensure the

accuracy of the claimed debt. Petitioner also requested to withdraw her hearing request concerning the disputed debt with the intent of possibly later requesting a hearing. MDHHS had no objections. Based on Petitioner's withdrawal, the dispute over the debt will be dismissed without prejudice.<sup>1</sup>

Petitioner also requested a hearing to dispute the denial of her FAP application dated [REDACTED], 2020. MDHHS did not present written notice explaining the denial but stated that the application was denied due to Petitioner's failure to verify employment income.

For FAP benefits, MDHHS is to verify income at application. BEM 505 (October 2017) p. 14. For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to send a VCL to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

MDHHS issued a Verification Checklist to Petitioner on September 11, 2020, giving Petitioner until September 21, 2020, to return 30 days of income. Petitioner testified that she submitted proof of her income to MDHHS. During the hearing, MDHHS checked its records and discovered that Petitioner indeed submitted proof of her income on the date that she applied for benefits. Thus, a denial based on Petitioner's failure to submit income was improper.<sup>2</sup> As a remedy, Petitioner is entitled to a reprocessing of her application.

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<sup>1</sup> If Petitioner later requests a hearing to dispute the overissuance, she will have a procedural obstacle. MDHHS must receive hearing requests within 90 days from written notice (see BAM 600). It has already been more than 18 months since MDHHS allegedly issued notice of the overissuance to Petitioner.

<sup>2</sup> Additionally, MDHHS acknowledged that written notice of the denial was never sent. MDHHS must send notice for all case actions (see BAM 210).


**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for FAP benefits. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application for FAP benefits dated [REDACTED] 2020;
- (2) Reprocess Petitioner's application subject to the finding that Petitioner timely submitted income verification; and
- (3) Issue notice and a supplement of benefits, if any, due to Petitioner.

The actions taken by MDHHS are **REVERSED**.

CG/tm



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**Christian Gardocki**

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

**Via Email:**

MDHHS-Wayne-76-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

**Petitioner – Via First-Class Mail:**

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