



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: January 14, 2021  
MOAHR Docket No.: 20-007543  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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 telephone hearing was held on January 7, 2021, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Julie Barr Recoupment Specialist. Department Exhibit 1, pp. 1-68 was received and admitted.

### **ISSUE**

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to client error?

### **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 November 6, 2019, a member of Petitioner's household [REDACTED] [REDACTED] began a new job.
2. Petitioner credibly testified that she submitted a form shortly after Mr. [REDACTED] began his job providing information about the job.
3. On July 14, 2020, a New Hire Notice was sent to Petitioner requesting information about Mr. [REDACTED] employment.
4. On November 18, 2020, Notice of Overissuance was sent to Petitioner informing her that she received an overissuance of FAP benefits from January 1, 2020, through March 31, 2020, totaling \$1,527 due to client error. (Ex. 1, p.62)

5. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing disputing the determination 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) [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.

### **OVERISSUANCE PROCESSING**

FIP, SDA, CDC and FAP Agency errors (other than CDC system errors) are not pursued if the amount is under \$250 per program. BAM 705 (October 2018)

In this case, Petitioner credibly testified that she reported the household member's income as required by sending in a form she had received from her worker. The Department did not receive or failed to budget the household member's income and as a result Petitioner received an overissuance of FAP benefits due to Agency error. Department policy requires that overissuances due to Agency error must be recouped if they are over \$250. Petitioner's overissuance was \$1,527 and therefore must be recouped. Petitioner did not dispute that the household member's income was not budgeted.

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 acted in accordance with Department policy when it determined that Petitioner received an overissuance of \$1,527 in FAP benefits and that this overissuance must be recouped. However, the Department failed to present sufficient evidence to establish that the overissuance was due to client error.

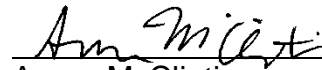
**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the finding and amount of overissuance and **REVERSED IN PART** with respect to the finding of client error.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Correct the record to reflect that Petitioner received an overissuance due to Department error.

AM/nr



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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- via electronic mail  
235 S Grand Ave  
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48909

Luce County DHHS(MDHHS-  
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OIG Hearings- via electronic mail

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**DHHS**

Rhonda Legault (Luce DHHS)  
500 West McMillan St.  
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**Petitioner**

 - via first class mail  
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