



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], MI [REDACTED]

Date Mailed: February 17, 2021  
MOAHR Docket No.: 20-008159  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [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 February 11, 2021, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Berniece Ray Recoupment Specialist. Department Exhibit 1, pp. 1-49 was received and admitted.

### **ISSUE**

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to department 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. Petitioner was a recipient of FAP benefits.
2. Petitioner had employment income that was not budgeted correctly.
3. On November 23, 2020, Notice of Overissuance was sent to Petitioner informing her that she received an overissuance of FAP benefits from March 1, 2020, through October 31, 2020, totaling \$4,876 due to agency error. (Ex. 1, p.45)
4. On December 28, 2020, Petitioner requested hearing disputing the determination of overissuance.

5. The Recoupment Specialist testified at hearing that Petitioner's overissuance was recalculated due to a change in policy and the correct overissuance amount is \$1,972.

### **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.

#### **All Programs**

When a client group receives more benefits than it is entitled to receive, the Michigan Department of Health and Human Services (MDHHS) must attempt to recoup the overissuance. 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

#### **FIP, SDA, CDC and FAP**

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705


In this case, Petitioner understood that her employment income was not budgeted correctly. As a result, Petitioner received an overissuance of FAP benefits due to Department error. Department policy requires that overissuances due to Department error must be recouped if they are more than \$250. Petitioner's overissuance was \$1,972 and therefore must be recouped. BAM 705, 7 CFR 273.18(a)(1)(i)

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 \$1,972 in FAP benefits due to Department error and that this overissuance must be recouped.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

AM/nr



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Aaron McClintic  
Administrative Law Judge  
for Elizabeth Hertel, 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

