



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: July 7, 2021
MOAHR Docket No.: 21-001938
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On April 2, 2021, Petitioner, [REDACTED], requested a hearing to dispute a notice of overissuance. Following Petitioner's hearing request, 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 July 1, 2021. Petitioner appeared with her attorney, [REDACTED]. Respondent, Department of Health and Human Services (Department), had Brandon McNamara, Recoupment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 78-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly determined that Petitioner owes the Department a debt of \$5,110.00 for Food Assistance Program (FAP) benefits that were overissued to her from March 2015 through December 2015?

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 applied for and received FAP benefits from the Department.
2. In 2011, the Department budgeted a one-time medical expense of \$2,717.00, but the Department erroneously entered the expense as a reoccurring expense rather than a one-time expense.

3. The budgeted medical expense caused Petitioner's budgeted net income to be understated.
4. In November 2015, the Department discovered that it had been erroneously budgeting a monthly medical expense of \$2,717.00.
5. The Department corrected Petitioner's budgeted net income, which made Petitioner ineligible for FAP benefits.
6. The Department closed Petitioner's FAP benefits effective January 1, 2016.
7. From March 2015 through April 2015, the Department issued Petitioner \$511.00 per month in FAP benefits. Petitioner had \$1,884.00 in monthly earned income, \$1,051.00 in monthly unearned income, and a \$0.00 monthly medical expense.
8. From May 2015 through June 2015, the Department issued Petitioner \$511.00 per month in FAP benefits. Petitioner had \$1,889.00 in monthly earned income, \$1,282.00 in monthly unearned income, and a \$0.00 monthly medical expense.
9. From July 2015 through September 2015, the Department issued Petitioner \$511.00 per month in FAP benefits. Petitioner had \$1,780.00 in monthly earned income, \$1,282.00 in monthly unearned income, and a \$0.00 monthly medical expense.
10. In October 2015, the Department issued Petitioner \$511.00 in FAP benefits. Petitioner had \$2,443.00 in monthly earned income, \$1,282.00 in monthly unearned income, and a \$0.00 monthly medical expense.
11. From November 2015 through December 2015, the Department issued Petitioner \$511.00 per month in FAP benefits. Petitioner had \$1,954.00 in monthly earned income, \$1,282.00 in monthly unearned income, and a \$0.00 monthly medical expense.
12. The Department reviewed its budgets and determined that Petitioner was ineligible for FAP benefits from March 2015 through December 2015 when the medical expense was removed.
13. The Department subtracted the total amount of FAP benefits that Petitioner was eligible for from the total amount of FAP benefits she received from March 2015 through December 2015, and the Department determined that Petitioner was overissued \$5,110.00.
14. On February 25, 2021, the Department mailed a notice of overissuance to Petitioner to notify her that she received an overissuance of \$5,110.00 in FAP benefits from March 2015 through December 2015.
15. On April 2, 2021, 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 based on a net income that was understated due to an improperly budgeted medical expense. When the improperly budgeted medical expense was removed, Petitioner was over the net income limit and ineligible for FAP benefits. The Department presented sufficient evidence to establish that the total amount overissued was \$5,110.00, 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 \$5,110.00.

Petitioner asserted that she should not be responsible for paying the overissuance because it was not her fault that she was overissued FAP. 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 \$250.00. 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 \$250.00.

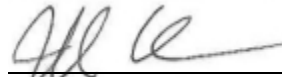
Petitioner further asserted that she should not be responsible for paying the overissuance because the Department did not notify her of the overissuance in a timely manner. Petitioner is correct that the Department did not act in a timely manner. The Department was required to establish a claim for the overissuance before the last day of the quarter following the quarter in which the overissuance was discovered. 7 CFR 273.18(d)(1). The Department did not act timely because it discovered the overissuance in 2015 and did not establish a claim until 2021. However, a claim that is not established timely is still a valid claim. 7 CFR 273.18(d)(3). Thus, although the Department did not act in a timely manner, Petitioner is still responsible for paying the overissuance.

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 acted in accordance with its policies and the applicable law when it determined that Petitioner owes the Department a debt of \$5,110.00 for FAP benefits that were overissued to her from March 2015 through December 2015.

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

JK/cc



Jeffrey Kemm

Administrative Law Judge

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-Recoupment-Hearings
MDHHS-Kalamazoo Hearings
BSC2-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

[REDACTED]

Counsel for Petitioner- Via USPS:

[REDACTED]