



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: January 24, 2022
MOAHR Docket No.: 21-005832
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On December 14, 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 January 13, 2022. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Eugene Brown, Recoupment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. An 86-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 \$[REDACTED] for Food Assistance Program (FAP) benefits that were overissued to her for the months of May 2020 through April 2021?

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 April 9, 2020, Petitioner applied for FAP benefits from the Department. Petitioner reported in her application that her household was composed of herself and her two children. Petitioner also reported that her household had income from her employment at [REDACTED]

2. The Department erroneously failed to budget Petitioner's household income, and the Department approved Petitioner for FAP benefits.
3. On April 27, 2020, the Department mailed a notice of case action to Petitioner to notify her that she was approved for FAP benefits based on a group size of three (Petitioner, [REDACTED] and [REDACTED] and \$0.00 per month budgeted earned income.
4. In May 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
5. In June 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
6. In July 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
7. On July 18, 2020, the Department mailed a notice of case action to Petitioner to notify her that her FAP benefit amount was going to be decreased. The notice stated that Petitioner was approved based on a group size of two ([REDACTED] and [REDACTED] and \$0.00 per month budgeted earned income. The notice stated that Petitioner was excluded as a group member because she failed to cooperate with the Office of Child Support.
8. In August 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son ([REDACTED] received \$[REDACTED] from his employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
9. In September 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
10. In October 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
11. In November 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
12. In December 2020, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.
13. In January 2021, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED] The Department issued Petitioner \$[REDACTED] in FAP benefits.

14. In February 2021, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED]. The Department issued Petitioner \$[REDACTED] in FAP benefits.
15. In March 2021, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED]. The Department issued Petitioner \$[REDACTED] in FAP benefits.
16. In April 2021, Petitioner received \$[REDACTED] from her employment at [REDACTED] and Petitioner's son received \$[REDACTED] from his employment at [REDACTED]. The Department issued Petitioner \$[REDACTED] in FAP benefits.
17. The Department discovered that it erroneously failed to properly budget Petitioner's household income.
18. The Department re-budgeted Petitioner's household income, and the Department determined that Petitioner was not eligible for any FAP benefits for the months of May 2020 through April 2021.
19. On November 24, 2021, the Department mailed a notice of overissuance to Petitioner to notify her that she received an overissuance of \$[REDACTED] in FAP benefits for the months of May 2020 through April 2021.
20. 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.

In this case, the Department determined that it overissued FAP benefits to Petitioner because it did not budget all of Petitioner's household income. 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. Based on the evidence presented, the Department overissued FAP benefits to Petitioner.

FAP benefits are income based. 7 CFR 273.9(a). Households which do not contain an elderly or disabled member must meet both the gross and net income eligibility standards to be eligible for FAP benefits. *Id.* Household size determines the applicable income eligibility standards. Household size generally consists of the number of individuals who live together and prepare food together. 7 CFR 273.1. Petitioner's household consisted of three because Petitioner lived with her two children.

From May 2020 through April 2021, Petitioner's household income exceeded the gross income limit to be eligible for FAP benefits. From May 2020 through September 2020, the gross income limit for a household size of three was \$2,311.00 per month, and Petitioner's gross monthly household income exceeded this amount each month. RFT 250 (October 1, 2019). From October 2020 through April 2021, the gross income limit for a household size of three was \$2,353.00 per month, and Petitioner's gross monthly household income exceeded this amount each month. RFT 250 (October 1, 2020).

Since Petitioner's household income exceeded the gross income limit for the months of May 2020 through April 2021, Petitioner was not eligible for any of the FAP benefits she received for those months. The Department presented sufficient evidence to establish that it issued Petitioner \$[REDACTED] in FAP benefits for the months of May 2020 through April 2021. Thus, Petitioner was overissued \$[REDACTED]

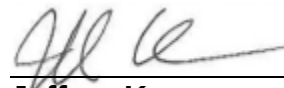
A FAP overissuance that results from the Department's error must be pursued by the Department when the amount is greater than or equal to \$250.00. BAM 705 (October 1, 2018), p. 1. Thus, even if the overissuance was not Petitioner's fault, the Department acted in accordance with its policies when it pursued the overissuance because the amount involved was greater than or equal to \$250.00.

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 \$[REDACTED] for FAP benefits that were overissued to her for the months of May 2020 through April 2021.

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

JK/dm



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

Sent Via Email:

MDHHS-Muskegon-Hearing
MDHHS-Recoupment-Hearings
BSC3-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Sent Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]