



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 12, 2022
MOAHR Docket No.: 22-000820
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On March 3, 2022, Petitioner, ██████████ ██████████, 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 April 7, 2022. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Jody Anderson, Recoupment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 53-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 \$██████████ for Food Assistance Program (FAP) benefits that were overissued to her for the months of November 2021 through January 2022?

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 received FAP benefits from the Department.
2. On ██████████ 2021, the Department issued a notice of case action to Petitioner to notify her that she was eligible for \$██████████ per month for FAP benefits. The notice instructed Petitioner to report to the Department within 10 days if her gross monthly household income exceeded \$3,363.00.

3. In September 2021, Petitioner's gross monthly household income was \$██████████, and Petitioner did not report to the Department within 10 days that her gross monthly household income exceeded the reporting limit.
4. The Department continued to issue FAP benefits to Petitioner as if her household income had not changed.
5. In October 2021, Petitioner's gross monthly household income was \$██████████, and Petitioner did not report to the Department within 10 days that her gross monthly household income exceeded the reporting limit.
6. In November 2021, Petitioner's gross monthly household income was \$██████████, and Petitioner did not report to the Department within 10 days that her gross monthly household income exceeded the reporting limit. The Department issued Petitioner \$██████████ in FAP benefits.
7. In December 2021, Petitioner's gross monthly household income was \$██████████, and Petitioner did not report to the Department within 10 days that her gross monthly household income exceeded the reporting limit. The Department issued Petitioner \$██████████ in FAP benefits.
8. In January 2022, Petitioner's gross monthly household income was \$██████████. The Department issued Petitioner \$██████████ in FAP benefits.
9. The Department reviewed Petitioner's case and determined that Petitioner received an overissuance of FAP benefits; the Department determined that Petitioner was not eligible for any FAP benefits for the months of November 2021 through January 2022.
10. On February 22, 2022, the Department issued a notice of overissuance to Petitioner to notify her that she was overissued FAP benefits in the total amount of \$██████████ for the months of November 2021 through January 2022.
11. On ██████████, 2022, Petitioner requested a hearing to dispute the 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. 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.

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 five because Petitioner lived with her partner and three children.

In November 2021 and December 2021, Petitioner's household income exceeded the gross income limit to be eligible for FAP benefits. During this time, the gross income limit for a household size of five was \$3,363.00 per month, and Petitioner's gross household income exceeded this amount each month. RFT 250 (October 1, 2021). Since Petitioner's gross household income exceeded the limit, 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 November 2021 and December 2021.

The Department also alleged that Petitioner was overissued FAP benefits for January 2022. Petitioner's gross household income did not exceed the limit for January 2022 because Petitioner's gross household income was only \$[REDACTED]. However, Petitioner's net household income must also fall within the limit to be eligible. The net household income limit for a household of five was \$2,587.00 per month. RFT 250. Based on the evidence presented, Petitioner's net household income was only \$[REDACTED], so Petitioner's net household income did not exceed the limit. Since Petitioner's income did not exceed either the gross income limit or the net income limit, Petitioner was eligible for FAP benefits for January 2022, and there was no overissuance because everyone eligible for FAP benefits in January 2022 received the maximum FAP benefit for their group size based on policies enacted in response to the COVID-19 pandemic. Thus, Petitioner was not overissued FAP benefits for January 2022.

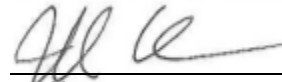
The Department's notice of overissuance was incorrect because it stated that Petitioner was overissued FAP benefits from November 2021 through January 2022 when Petitioner was only overissued FAP benefits from November 2021 through December 2021. The notice of overissuance should have stated that Petitioner was overissued \$[REDACTED] in FAP benefits for the months of November 2021 through December 2021. Since the Department's notice of overissuance was incorrect, it is reversed. The Department shall redetermine the amount of the overissuance consistent with this decision and then issue a new notice of overissuance to Petitioner.

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 did not properly determine that Petitioner owes the Department a debt of \$2,976.00 for Food Assistance Program benefits that were overissued to her from November 2021 through January 2022.

IT IS ORDERED that the Department's decision is **REVERSED**. The Department shall redetermine the amount of the overissuance consistent with this decision and then issue a new notice of overissuance to Petitioner. The Department shall begin to implement this decision within 10 days.

JK/mp



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

