



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: May 23, 2022
MOAHR Docket No.: 22-001828
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On April 20, 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 May 19, 2022. Petitioner appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Bernice Ray, Recoupment Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 30-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 \$954.00 for Food Assistance Program (FAP) benefits that were overissued to her from August 2021 through November 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 ██████████ 2021, Petitioner applied for FAP benefits from the Department.
2. When Petitioner submitted her application for FAP benefits to the Department, Petitioner disclosed that she had been receiving FAP benefits from another state within the past 30 days.
3. Petitioner had been receiving FAP benefits from Georgia.

4. When Petitioner moved to Michigan, Petitioner attempted to close her FAP case in Georgia, but Georgia did not close it.
5. The Department erroneously approved Petitioner for FAP benefits without first confirming that Georgia had closed Petitioner's FAP case.
6. The Department and Georgia both issued FAP benefits to Petitioner from August 2021 through November 2021.
7. The Department issued Petitioner \$1,562.00 in FAP benefits from August 2021 through November 2021.
8. The Department subsequently reviewed Petitioner's case and determined that it issued Petitioner \$954.00 in FAP benefits from August 2021 through November 2021 that Petitioner was not entitled to receive.
9. The Department determined that Petitioner was entitled to \$608.00 of the FAP benefits she was issued from August 2021 through November 2021 because that was the amount that was issued for her newborn child who was not issued any FAP benefits by Georgia, plus the amount of Federal COVID-19 FAP supplements that cannot be recouped.
10. On April 8, 2022, the Department mailed a notice of overissuance to Petitioner to notify her of the overissuance.
11. On April 20, 2022, 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 erroneously issued FAP benefits to Petitioner while she was receiving FAP benefits from Georgia. 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.

A person cannot receive FAP benefits from more than one state for any month. BEM 222 (October 1, 2018). Petitioner received FAP benefits from more than one state from August 2021 through November 2021 because Petitioner was issued FAP benefits by both the Department and the state of Georgia from August 2021 through November 2021. Thus, Petitioner received FAP benefits that she was not entitled to receive. Therefore, Petitioner was overissued FAP benefits. The Department properly determined that the amount of the overissuance was \$954.00 because that was the amount that Petitioner received but was not entitled to.

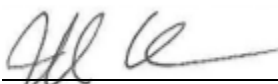
Petitioner asserted that she should not be responsible for paying the overissuance because it was not her fault that she was overissued FAP benefits. A FAP overissuance that results from the Department's error must be pursued by the Department when the amount is greater than or equal to \$250.00. BAM 705 (October 1, 2018), p. 1. Although Petitioner received an overissuance due to the Department's error, 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 properly determined that Petitioner owes the Department a debt of \$954.00 for Food Assistance Program benefits that were overissued to her from August 2021 through November 2021.

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

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

Email Recipients:

MDHHS-Recoupment-Hearings
MDHHS-Berrien-Hearings
D. Sweeney
M. Holden
BSC3

First-Class Mail Recipient:

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