



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 1, 2022
MOAHR Docket No.: 22-003223
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 August 25, 2022, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Annette Fullerton, Recoupment Specialist.

ISSUE

Did the Department properly that the Respondent had received an over issuance of Food Assistance Program (FAP) benefits due to Respondent 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. The Respondent was a recipient of FAP benefits from the Department. Department Exhibit 1, pgs. 14-18.
2. The Respondent was awarded Veteran's Assistance (VA) disability benefits that started on May 1, 2020. Department Exhibit 1, pgs. 45-49.
3. The Respondent applied for FAP benefits on [REDACTED], 2021, but did not report her VA benefits, until her November 22, 2021, Assistance Application, DHS 1171, for State Emergency Relief (SER). Department Exhibit 1, pgs. 50-72.
4. On April 21, 2021, the Department Caseworker sent the Respondent a Notice of Case Action, DHS 1605, that the Respondent was approved for FAP benefits from April 1, 2021, through March 31, 2022, in the amount of \$ [REDACTED] per month for a household group size of 3, but the Respondent's VA benefits were not counted

because they were not reported until November 22, 2021. Department Exhibit 1, pgs. 36-44.

5. On November 22, 2021, the Department became aware that the Respondent was a recipient of VA benefits, which resulted in an overissuance of FAP benefits due to Respondent error from March 1, 2021, through November 30, 2021. Department Exhibit 1, pg. 73.
6. The Department alleges that the Respondent received a FAP over issuance during the period of March 1, 2021, through November 30, 2021, due to Respondent's error. Department Exhibit 1, pgs. 19-35.
7. The Department alleges that Respondent received \$ [REDACTED] FAP OI due to Respondent's error that is still due and owing to the Department. Department Exhibit 1, pgs. 12-13.
8. On July 18, 2022, the Department received a hearing request from the Respondent, contesting the Department's negative action.

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.

Additionally, the Respondent reported during the hearing that she did not have a written verification of her VA benefits when she received them initially. When she did get written verification to provide to the Department, the Respondent reported the VA benefits on November 22, 2021. However, Department policy is clear that the Respondent has 10 days to report changes in income. A verbal declaration that the Department Caseworker could have verified would have been sufficient so that the VA income could have been budgeted. She started receiving the VA benefits on May 1, 2020, but did not report the additional income until November 22, 2021.

As a result, the Respondent received an overissuance of FAP benefits for the contested time period of March 1, 2021, through November 30, 2021, due to Respondent's error in the amount of \$ [REDACTED]. BAM 105, 220, 700, and 715. BEM 503. The Department

alleges Respondent received \$ [REDACTED] FAP OI due to Respondent's error that is still due and owing to the Department. Department Exhibit 1, pgs. 1-73.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$ [REDACTED] from March 1, 2021, through November 30, 2021.

Accordingly, the Department is **AFFIRMED**.

The Department is ORDERED to initiate collection procedures for a FAP \$ [REDACTED] OI in accordance with Department policy.

CF/cc



Carmen G. Fahie
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-Electronic Mail :

Interested Parties

MDHHS-Eaton-County-Hearings
MDHHS-RECOUPMENT-HEARINGS
BSC2-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]