



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], MI [REDACTED]

Date Mailed: November 30, 2022
MOAHR Docket No.: 22-004972
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 November 23, 2022, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by LaCre Barnett Recoupment Specialist. Department Exhibit 1, pp. 1-48 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to Department error that must be recouped?

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 was a recipient of FAP benefits.
2. Petitioner began a job at [REDACTED] and reported that job in a timely manner by leaving a voicemail message within 10 days of her employment beginning.
3. On September 26, 2022, Notice of Overissuance was sent to Petitioner informing her that she received an overissuance of FAP benefits from December 1, 2021, through September 30, 2022, totaling \$ [REDACTED] due to client error. (Ex. 1, p. 6)

4. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested hearing disputing the determination 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) [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.

All Programs

When a client group receives more benefits than it is entitled to receive, the Michigan Department of Health and Human Services (MDHHS) must attempt to recoup the overissuance. BAM 700

AGENCY ERROR EXCEPTIONS

FIP, SDA, CDC and FAP

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705

In this case, the Department argued at hearing that Petitioner failed to report her employment income as required. Petitioner credibly testified at hearing that she did report her employment with [REDACTED] within 10 days of beginning that employment by leaving a voicemail message. However, the Department did not act on that report and did not budget Petitioner's employment income. As a result, Petitioner received an overissuance of FAP benefits due to Department error. Department policy requires that overissuances due to Department error must be recouped if they are over \$250. BAM 705, 7 CFR 273.18(a)(i) Petitioner's overissuance was \$[REDACTED] and therefore must be recouped.

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 Department policy when it determined that Petitioner received an overissuance of \$[REDACTED] in FAP benefits for the time period from December 1, 2021, through September 30, 2022, due to Department error and that this overissuance must be recouped.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with regard to the finding of client error but **AFFIRMED** with regard to the determination of overissuance. Petitioner received an overissuance of FAP in the amount of \$ [REDACTED] due to Department error and the Department may pursue collection of that overissuance.

AM/nr



Aaron McClintic
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 :

DHHS
Heidi Ward
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105 W. Tolles Drive
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**MDHHS-Clinton-
Hearings@michigan.gov**

Interested Parties
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Recoupment
L. Bengel
MOAHR

DHHS Department Rep.
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Verification (ORV)
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**MDHHS-RECOUPMENT-
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Via-First Class Mail :

Petitioner

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