



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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██████████, MI ██████████

Date Mailed: April 3, 2023
MOAHR Docket No.: 23-000993
Agency No.: ██████████
Petitioner: ██████ ██████

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 March 23, 2023, from Lansing, Michigan. The Petitioner was represented by himself. ██████████ ██████████ also appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by Sharion Hopson, Recoupment Specialist. Department Exhibit 1, pp. 1-103 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to agency 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. Petitioner was a recipient of FAP benefits.
2. On May 1, 2019, Petitioner began receiving Social Security benefits,
3. On September 20, 2019, pursuant to a redetermination, Petitioner reported his Social Security income to the Department.
4. The Department did not budget Petitioner's Social Security benefits.
5. On February 3, 2023, Notice of Overissuance was sent to Petitioner alleging that he received an overissuance of FAP benefits from July 1, 2019, through October 31, 2019, in the amount of \$1,353 due to agency error. (Ex. 1, pp. 11-12)

6. On February 10, 2023, Petitioner requested hearing disputing the finding 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.

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 (October 2018)

OVERISSUAN CE PROCESSING

FIP, SDA, CDC and FAP

Agency errors (other than CDC **system** errors) are not pursued if the amount is under \$250 per program. BAM 705 (October 2018)

In this case, Petitioner began receiving social security benefits in May 2019 and he reported that income at redetermination on September 20, 2019. Petitioner's social security income was not budgeted, and it should have been. As a result, Petitioner received \$1,353, from the time period from July 1, 2019, through October 31, 2019, due to agency error. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM

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 FAP benefits in the amount of \$1.353 during the time period from July 1, 2019, and October 31, 2019, due to agency error.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

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
Kim Cates
Bay County DHS
1399 W. Center Road
Essexville, MI 48732
**MDHHS-Bay-
Hearings@michigan.gov**

Interested Parties
Bay County DHHS
MDHHS Recoupment
N. Stebbins
MOAHR

DHHS Department Rep.
Overpayment Research and
Verification (ORV)
235 S Grand Ave
Lansing, MI 48909
**MDHHS-RECOUPMENT-
HEARINGS@Michigan.gov**

Via-First Class Mail :

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