



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: May 1, 2023  
MOAHR Docket No.: 23-001745  
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 April 28, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Dawn McKay, Recoupment Specialist. Department Exhibit 1, pp. 1-82 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. In February and March 2011, a household member had one-time medical expense and that was inputted as an ongoing medical expense in the FAP budget in error. (Ex. 1, p. 50)
3. On March 14, 2023, Notice of Overissuance was sent to Petitioner alleging that she received an overissuance of FAP benefits from July 1, 2019, through June 30, 2020, in the amount of \$4,584 due to agency error. (Ex. 1, pp. 77-79)
4. On March 20, 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)

### **OVERISSUANCE 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 reported one-time medical expenses in February and March 2011 that were inputted as ongoing medical expense in error. (Ex. 1, p. 50) Petitioner received medical expense deduction from 2011 through 2019 that resulted in her receiving more FAP benefit than she was entitled to for that entire period. However, Department policy dictates that Department error overissuances can only be recouped for a period of 12 months. As a result, Petitioner received \$4,584, in FAP benefits from the time period from July 1, 2019, through June 30, 2020, due to agency error that can be recouped. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM

Petitioner raised issues with regard to a period of time that her case was closed for 12 months due to a sanction. Petitioner testified that the sanction was put in place in error

because it was due to failing to comply with PATH requirements for a minor child. It was explained that the undersigned Administrative Law Judge could only address Department action that occurred within 90 days of Petitioner's request for hearing. Therefore, the Department action that took place more than 90 days prior to the request for hearing could not be addressed. BAM 600 Petitioner raised issues at hearing with regard to the Department not pursuing the overissuance in a timely manner, but the Department pursued the overissuance once it was discovered within the required timeframe.

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 \$4,584 during the time period from July 1, 2019, and June 30, 2020, due to agency error.

**DECISION AND ORDER**

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

AM/nr

  
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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

