



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], IN [REDACTED]

Date Mailed: May 15, 2023  
MOAHR Docket No.: 23-001828  
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 May 10, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Recoupment Specialist Eugene Brown. Department Exhibit 1, pp. 1-57 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?

### **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 in the State of New York.
2. On April 4, 2022, Petitioner applied for FAP benefits in Michigan and provided proof that her New York FAP closed.
3. On April 5, 2022, Notice of Case Action was sent to Petitioner informing her that she was approved for FAP benefits.
4. On July 28, 2022, Out of State Benefit Match Notice was sent to Petitioner regarding her Medical Assistance benefit.

5. On February 22, 2023, Notice of Overissuance was sent to Petitioner alleging that he received an overissuance of FAP benefits from September 1, 2022, through January 31, 2023, due to department error in the amount of \$4,093.
6. On March 27, 2023, 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.

#### **Overissuance Amount FIP, SDA, CDC and FAP**

The amount of the overissuance is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715

In this case, Petitioner told the Michigan DHHS when she applied for FAP benefits on April 4, 2022, that she had been active FAP in New York and provided proof that her FAP case in New York closed. On April 5, 2022, Notice of Case Action was sent to Petitioner informing her that FAP was approved.

On July 28, 2022, Out of State Benefit Match Notice was sent to Petitioner regarding her Medical Assistance benefit. That notice had no bearing on Petitioner's FAP benefit. Petitioner's MA case could not close in New York due to COVID rules.

The Recoupment Specialist Eugene Brown, agreed after reviewing Petitioner's electronic case file at hearing that Petitioner did not receive an overissuance of FAP benefits.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Petitioner received an overissuance of FAP benefits due to Department error.

**DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Delete the finding of FAP overissuance.
2. Issue a supplement for monies collected from Petitioner towards the FAP 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**

Kristina Etheridge  
Calhoun County DHHS  
190 East Michigan  
Battle Creek, MI 49016  
**MDHHS-Calhoun-  
Hearings@michigan.gov**

**Interested Parties**

Calhoun County DHHS  
MDHHS Recoupment  
N. Stebbins  
MOAHR

**DHHS Department Rep.**

Overpayment Establishment Section  
(OES)  
235 S Grand Ave Ste 811  
Lansing, MI 48909  
**MDHHS-RECOUPMENT-  
HEARINGS@Michigan.gov**

**Via-First Class Mail :**

**Petitioner**

██████████  
████████████████████  
██████████, IN ██████████