



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: June 14, 2023
MOAHR Docket No.: 23-002534
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED] [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 June 7, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Recoupment Specialist Kathleen Zewatsky. Department Exhibit 1, pp. 1-50 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of 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. Petitioner received Social Security widows benefit that she reported that was not budgeted. (Ex. 1, pp. 1-43)
3. On April 6, 2023, Notice of Overissuance was sent to Petitioner alleging that she received an overissuance of FAP benefits in the amount of \$2,701 from May 1, 2022, through April 30, 2023, because employment income was not budgeted.
4. On May 1, 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.

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 that her daughter had moved out, but she was not removed from the FAP group in error. As a result, Petitioner received \$1,001, in FAP benefit from the time period from April 1, 2021, through October 31, 2021, due to agency error. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM 705

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 \$1,001 during the time period from April 1, 2021, and October 31, 2021, 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

Heather Dennis
Jackson County DHHS
301 E. Louis Glick Hwy.
Jackson, MI 49201
**MDHHS-Jackson-
Hearings@michigan.gov**

Interested Parties

Jackson County DHHS
BSC4
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

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