



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: July 6, 2023
MOAHR Docket No.: 23-002790
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 June 21, 2023, from Lansing, Michigan. The Petitioner was represented by her husband ██████████ ██████████. The Department of Health and Human Services (Department) was represented by Recoupment Specialist Dawn McKay. Department Exhibit 1, pp. 1-89 was received and admitted.

ISSUE

Did the Department properly determine that Petitioner received an overissuance of Food Assistance Program (FAP) benefits due to client error that the Department is entitled to recoupment?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 5, 2023, ALJ Carme Fahie issued a Decision and Order following a hearing held on April 26, 2023. That Decision and Order instructed the Department to recalculate the overissuance amount.
2. On May 10, 2023, Notice of Overissuance was sent to Petitioner informing her that she received a FAP overissuance totaling \$376.97 that was still due and outstanding. (Ex. 1, p.14)
3. On May 15, 2023, Petitioner requested hearing disputing the overissuance amount and contending that there was a balance on the EBT card that should have been credited.

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 (October 2018)

In this case, Petitioner's husband argued at hearing that there was FAP benefit on an EBT card issued to Petitioner that was never used and she should have received credit towards the overissuance for the unused amount. The Department representative credibly testified at hearing and provided documentation showing that Petitioner used all the FAP benefits on the EBT card and there was a zero balance on the card. (Ex. 1, p.73) Purchases were made at grocery stores in Petitioner's area after Petitioner's case closed. (Ex. 1, pp. 64-72) Therefore, Petitioner is not entitled to any additional offset towards the overissuance.

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 totaling \$376.97 for the time period from July 1, 2018, through October 31, 2018, due to client error that is still outstanding.

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
Shannon Louisignau
Benzie County DHHS
448 Court Place
Beulah, MI 49617
**MDHHS-Benzie-
Hearings@michigan.gov**

Interested Parties
Benzie County DHHS
MDHHS Recoupment
N. Stebbins
MOAHR

DHHS Department Rep.
Overpayment Establishment Section
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