



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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Date Mailed: July 25, 2023
MOAHR Docket No.: 23-003422
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 July 19, 2023, from Lansing, Michigan. The Petitioner was represented by herself. Petitioner's father ██████ ██████ also appeared and testified. The Department of Health and Human Services (Department) was represented by Sharion Hopson, Recoupment Specialist. Department Exhibit 1, pp. 1-150 was received and admitted.

Did the Department properly determine that Petitioner received an overissuance of FAP benefits due to client error and 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 with simplified reporting.
2. Petitioner failed to report employment income from ██████ ██████ ██████ that began in April 2018, and that income was not budgeted. (Ex. 1, p. 73)
3. On June 8, 2023, Notice of Overissuance was sent to Petitioner alleging that he received an overissuance of FAP benefits in the amount of \$489 from August 1, 2018, through December 31, 2018, because employment income that was not reported was not budgeted due to client error. (Ex. 1, pp.11-12)
4. Petitioner reported employment income from ██████ ██████ ██████ on November 20, 2018, and that income was not budgeted.

5. On June 8, 2023, Notice of Overissuance was sent to Petitioner alleging that she received an overissuance of FAP benefits in the amount of \$707 from January 1, 2019, through July 31, 2019, because employment income that was reported was not budgeted due to Department error. (Ex. 1, pp. 29-30)
6. On June 16, 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 (October 2017)

Client Error

All Programs

A **client error** occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p.7 (October 2018)

Department Error

FIP, SDA, CDC and FAP

Agency error overissuances are not pursued if the estimated amount is less than \$250 per program. BAM 705

In this case, Petitioner failed to report employment income from [REDACTED] [REDACTED] [REDACTED] and that income was not budgeted. As a result, Petitioner received \$489, in FAP benefit from the time period from May 1, 2018, through December 31, 2018, due to client error. Department policy requires that client error overissuances be recouped. BAM 700 The Department provided sufficient proof that Petitioner failed to report employment income that was not budgeted and as a result Petitioner received 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 acted in accordance with Department policy when it determined that Petitioner received an overissuance of FAP benefits in the amount of \$489 during the time period from May 1, 2018, and December 31, 2018, due to client error.


In addition, after Petitioner reported employment income from Mort's Northern Bar the income was not budgeted. As a result, Petitioner received \$707, in FAP benefit from the time period from January 1, 2019, through July 31, 2019, due to agency error. Department policy requires that agency error overissuances be recouped if they are over \$250. BAM 700 The Department provided sufficient proof that Petitioner reported employment income that was not budgeted and as a result Petitioner received 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 acted in accordance with Department policy when it determined that Petitioner received an overissuance of FAP benefits in the amount of \$707 during the time period from January 1, 2019, and July 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 DHHS
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.
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Via-First Class Mail :

Petitioner
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